

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

The Sixth Meeting of the First Session of the Tenth House of Assembly held in the House of Assembly Chamber on Thursday 28th April, 2005 at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

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 L A Randall

ABSENT:

The Hon S E Linares
The Hon Miss M I Montegriffo

IN ATTENDANCE:

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

PRAYER:

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 20th December 2004, were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table:-

1. The Ombudsman's – 5th Annual Report for the period January to December 2004 and Annexe thereto;
2. Import Duty (Integrated Tariff) (Amendment) Regulations 2005;
3. Licensing and Fees (Amendment of Schedule) Order 2005.

Ordered to lie.

The Hon the Minister for Trade, Industry and Communications laid on the Table:-

1. The Air Traffic Survey 2004;
2. The Tourist Survey Report 2004;
3. The Hotel Occupancy Survey 2004.

Ordered to lie.

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

1. Consolidated Fund Reallocations – Statement No. 6 of 2004/2005;
2. Consolidated Fund Pay Settlements – Statement No. 7 of 2004/2005;
3. Consolidated Fund Supplementary Funding – Statement No. 8 of 2004/2005;
4. The Draft Estimates of Revenue and Expenditure 2005/2006.

Ordered to lie.

PERSONAL EXPLANATION

HON F R PICARDO:

Mr Speaker, I am grateful. As my declaration in the Register of Members' Interests shows, since 1st January 2005 I have been conducting my legal career as the sole partner of Picardo & Co and as a consultant to Hassans. I have now returned as a partner to Hassans with effect from this week. I therefore declare to this House my interests as a partner of Hassans and its associated companies. I have written to the Clerk in his capacity as Registrar of Members' Interests to this effect to ensure that my entry is current. Thank you.

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 5.40 pm.

The House resumed at 6.00 pm.

Answers to Questions continued.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Friday 29th April 2005, at 9.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 7.50 pm on Thursday 28th April 2005.

FRIDAY 29TH APRIL 2005

The House resumed at 9.35 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Hareesh K Budhrani QC)

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 L A Randall

ABSENT:

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

IN ATTENDANCE:

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

DOCUMENTS LAID

The Hon the Financial and Development Secretary laid on the Table the Statement of Supplementary Estimates No. 1 of 2004/2005.

Ordered to lie.

ANSWERS TO QUESTIONS (CONTINUED)

The House recessed at 1.05 pm.

The House resumed at 2.35 pm.

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

THE FINANCIAL COLLATERAL ARRANGEMENTS (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Financial Collateral Arrangements Ordinance 2004, be read a first time.

Question put. Agreed to.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 12th May 2005, at 2.30 pm.

Question put. Agreed to.

The Adjournment of the House was taken at 5.30 pm on Friday 20th April 2005.

THURSDAY 12TH MAY 2005

The House resumed at 2.32 pm.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

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

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table:-

1. The Annual Report and Audited Accounts of the Elderly Care Agency for the years ended 31st March 2002, 2003, 2004;
2. The Financial Services (Fees)(Amendment) Regulations 2005.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

**THE FINANCIAL COLLATERAL ARRANGEMENTS
(AMENDMENT) ORDINANCE 2005**

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 that actually brings about a very small and simple amendment in relation to a point that was brought to our attention after we had transposed the directive in the form of the Financial Collateral Arrangements Ordinance. The Bill simply amends the definition of “financial instrument” that is to say, financial instruments is a defined term and the Bill alters the definition of that term in order to remove securities normally traded on financial markets from the definition of financial instruments so that any security whether traded or not can be used as financial collateral without the need for registration. Just to explain that a little bit further, the way we set out the definition of “financial services” which is set out in the directive, there is a definition in the directive of financial services. The way it was physically set out in the Bill caused to be qualified in (a) of our definition the word “securities” by the words “normally traded on financial markets”. Those words do indeed appear in the directive but after a reference to “and other securities normally traded on the stock exchange”. The UK interpreted that to mean that only the latter but not the former needed to be normally traded on financial markets and transposed it as we are now seeking to amend it. In other words, securities need not normally be traded on financial markets, only other securities in the nature of debt would need to be traded on financial markets in order, and this is the point, in order for them not to need to be registered and a member of the legal fraternity said to us in Gibraltar by having applied the normally traded on financial markets qualification to security in a way that the directive does not require has narrowed the list of financial services securities that can be collateralised without registration. In other words, we have widened the net of registerability wider than the directive required, so all that this Bill does is delete from (a) securities, the first element of the definition in our principal Ordinance of financial services is (a) securities, and it says securities is normally traded on financial markets. We would simply be deleting the words “normally traded on financial markets” so that it would just remain

securities, leaving the reference to normally traded on financial markets in other parts of the definition where they already apply, so we are subtracting it from one reference only and this is the sole effect of this amendment and I commend the Bill to the House so that we should not inadvertently create additional obstacles to our financial services industry that the directive does not require and which indeed do not prevail in the UK.

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 later today.

Question put. Agreed to.

THE DEPOSIT GUARANTEE SCHEME (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Deposit Guarantee Scheme Ordinance 1997 in order to amend the definition of the “Minister”, 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 also is a short Bill and serves the sole purpose of altering the definition of “Minister” in the Deposit Guarantee Scheme Ordinance following the transfer of Ministerial portfolio responsibilities from the Minister for Trade and Industry, as it was at the time that this Ordinance was passed, to the Chief Minister which is what happened after the Elections. All this does is make sure that the Deposit Guarantee Scheme Ordinance does not define “Minister” by reference to a Minister that is not the one actually responsible for financial services. I commend the Bill to the House.

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

HON J J BOSSANO:

There is just one point I want to make. Am I correct in interpreting this as meaning that if the responsibility for financial services was passed on to another Minister it would not require any further amendment?

HON CHIEF MINISTER:

Correct. The hon Member will see that in fact the portfolio is presently mine but it does not say substitute for Minister for Trade and Industry the Chief Minister, because at some point in the future if I relinquish the portfolio it will go to whatever Minister that has responsibility for financial services, so there will be no need to do this amendment again. The tendency now in legislation when we are defining Ministers, this did not happen that way because it was some time ago, is to define Minister by reference to the description of the responsibility rather than by

reference as used to be the case to the title of the Ministry. So things could pass from one Ministry to the other so long as one says the Minister with responsibility for the Environment, it does not matter who is the Minister that has that in his portfolio, he is the Minister with responsibility for the environment, and that avoids the need for future changes.

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) (AMENDMENT) (NO. 2) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Taxation (Savings Income) Ordinance 2004 in order to complete the transposition into the law of Gibraltar of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments and to transpose into the law of Gibraltar Council Directive 2004/66/EC of 26 April 2004 adapting Council Directive 2003/48/EC in the fields of taxation, by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia 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, this Bill basically does two things in respect of the Taxation of Savings Directive. The least difficult to explain is the second part of what it achieves, which is to extend our legislation transposing the Taxation of Savings Directive which we did in 2004 and that is the legislation that the hon Members will recall contained a provision in it that I could not commence it before July 2005, that legislation by this Bill is extended to the new accession countries listed there. So in that respect there will be no change and were we not to be doing the other things that we are doing in the Bill that I will now explain to the hon Members, we would have had to do only that, just that, simply extend our legislation to accommodate the accession countries which the hon Members will see is done in the Bill by adding in respect of each new Member State, to Part 1 of Schedule 2 the appropriate entities some of which are listed in respect of other Member States in respect of the new Member States. I am not going to try and pronounce any of them, hon Members will see that each Member State has a series of organisations listed and this is the expansion of that list in respect of accession states.

The other amendments are just two corrections to the original transposition. The first is an amendment to clause 2(2) of the Bill which is a definition of a Member State at the moment as excluding the UK. Hon Members will recall when we passed this original Ordinance, that there was no obligation on our part to implement the terms of this particular directive, vis a vis the UK because it was not cross border and we achieved that simply by excluding the UK from the definition of Member State. So the UK is not part of the definition of Member State and will continue not to be after the amendments to this Bill. However, the Bill in respect of certain very narrow aspects of it has a defined term "third country" in respect of some part of the operation of the

Ordinance which relates to third countries, countries that are not part of the EU at all, but of course they are not included in the definition of that either they fear because of course third countries necessarily mean third in the context of Member States. Third meaning not being a Member State. Of course the UK have pointed out to us that this, whilst they acknowledge that we are not obliged to include them in the definition of Member State, by virtue of having excluded them from the definition of Member State which in turn excludes them from the definition of third country, they are in a limbo, they are not being treated as a Member State, which they understand and accept, but nor are they being treated for the very narrow purposes that it is relevant under the Ordinance, nor are they being treated as a, 'third country' and that they have invited us to at least treat them as a third state and this amendment achieves that by bringing the UK within the scope of the definition of third state. So the amendment in third country means a country including the United Kingdom with which Gibraltar is not required to exchange information pursuant to the Savings Directive.

The definition of third country at the moment simply reads: "third country means a country other than a Member State". So by use of that definition of third country we were excluding them from the definition of third country because they are not part of the definition of Member State. So third country is presently defined as a country other than a Member State. Member State does not include the United Kingdom. One could therefore argue that they are in fact already included in the definition of third country because as used in this definition, the phrase Member State does not mean all 25 Member States, it means in fact all 25 minus one and therefore that minus one is not actually more than semantically by definition excluded from the definition of third country. It is not excluded but as they asked if we could make that more clear and it would have absolutely no significance in terms of the effect of the legislation, we think that the legislation already says that, then we are simply bringing the amendment in order to further explain why we think that their argument is not applicable. The other two amendments are minor mis-transpositions that the UK pointed out to us, nothing

to do with the application of the legislation to the UK or not but they simply pointed out to us that there were one or two small drafting errors in our transposition of the legislation. One was that there was a reference to the wrong section in section 3(1)(b)(iv) of the Ordinance, there was a reference to section 5(1) when in fact it should be a reference to section 4(3) and that is just a misquoted reference, a mis-referred section. The other is that in section 4(5) the words "or territory other than Gibraltar" should be added in order to accurately complete the transposition. These are points that our draftsmen agree with were errors in the first place.

Finally, section 7(3)(a) and (b) are amended by inserting after the words "whether direct or indirect" after the words "investment" in each instance where that word appears, that also is simply to more accurately reflect the language of the directive, in paragraph (a) by inserting after sub-section (1)(c)(i) to (iii) the words "whether established within Gibraltar or in a Member State", which has also provided for this derogation, and in paragraph (b) by inserting after the word "Gibraltar" the words "or in a Member State which has also provided for this derogation". Our draftsmen have agreed that those were technical deficiencies in our original transposition and therefore we are bringing this amendment. The only substantive amendment being introduced by this Bill is making provision for the accession countries, the others have no impact whatsoever on the meaning and effect of what we thought we were legislating when we legislated the principal Ordinance. I commend the Bill to the House.

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

HON J J BOSSANO:

I must say the explanation that the Chief Minister started giving is not the same as the explanation he finished giving about the reference to the United Kingdom, because he said that the way

that we had previously legislated in the 2004 Ordinance was that the United Kingdom had been left in limbo because it was not included in the definition of Member State and was not included in the definition of third country. Of course, if the definition of third country is it means a country other than a Member State, then it must be included already in the definition of third country, if it is excluded specifically in the definition of Member State. We may be doing no more than re-legislating what we have already legislated in a different way, we may be doing no more than that, but we are using different words and I always get nervous when we have different words in legislation knowing the mischief that lawyers get up to. So can we not just say “third country means a country other than a Member State including the United Kingdom”? That leaves the definition that exists there but explicitly identifies the United Kingdom, because since we are no longer saying that a third country is something other than a Member State, we are saying instead that a third country is something with which Gibraltar is not required to exchange information pursuant to the Savings Directive. Suppose somebody comes tomorrow and tells us that there is some place that we consider to be a third country but which they consider to be somebody we should give information to pursuant to the directive even though they are not a Member State. We are defining a third country not just for the purpose of including the United Kingdom, but for the purpose of everything other than a Member State in a slightly different way. I would prefer, since we are talking about the general principles and the principle that I am addressing is the inclusion of the United Kingdom, then I put it to the Government that the inclusion of the United Kingdom in order to put their minds at rest that we are not consigning them to limbo, although sometimes there are those of us who believe they should be, in order to rescue them from limbo all we need to do I put it to the Government is to add the words “including the United Kingdom” after the existing definition which we have been told reads, “third country means a country other than a Member State including the United Kingdom”. We do not need to add all the rest which is new and which I am not happy with, unless I get somebody to look into it for me and give me a view on it because I accept entirely the explanation that we

have been given for the reason for this. The original reason was that they had been left in limbo, it appears that they have not been left in limbo but they think that they have, well let us put their minds at rest simply by adding the words “including the United Kingdom” and say “third country means a country including the United Kingdom that is not a Member State”. Or “a country other than a Member State including the United Kingdom”, and it seems to me then that we are doing nothing more than what we have been told is the intention.

HON CHIEF MINISTER:

Well actually if the hon Member looks at the principal Ordinance he will see that the use to which the defined term “third country” is put is simply to say that third countries are countries with whom we do not have to exchange information, I accept what the hon Member is saying because he does not now have in his mind what the consequences are of the definition of third country. So he knows that we are talking about the definition of the phrase “third country” but he does not then know in what context that phrase is used in the body of the legislation. So he does not know whether it says third country shall do this or third countries must do that in respect of third countries or not do that. I can tell him that in fact the use to which the phrase of this defined term is put is simply to put in the negative the statement that the exchange of information is only required with Member States. That said, I have no difficulty with the alternative approach to the definition that the hon Member suggests, except that I would have to give a little bit more thought to his precise proposal about how to achieve it, because it becomes very complicated. If the definition of third country means a country other than a Member State including the UK, it almost begs the question whether the UK is being included in one so we would have to just find an order of saying that that did not have that effect but nor did it use this formula about exchanging information or with countries not having information. I am not sure it is good legislation but we would have to think of a phrase making it clear that the UK is included in the definition of third

country without reference to anything to do with the administration of the Ordinance such as exchange of information. Third country means a country other than a Member State as defined herein and thus includes the United Kingdom. It is just a question of padding out, rather than using the word "including" which begs the question, it is just using a few more words which make it perfectly clear that we are including and not excluding. So if the hon Member wants to propose that amendment that "Third country means a country other than a Member State as defined in this section and thus includes the United Kingdom." If the hon Members move that amendment we would support it.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE MUTUAL LEGAL ASSISTANCE (SCHENGEN CONVENTION) (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Mutual Legal Assistance (Schengen Convention) Ordinance 2004, 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 amendment actually is of one interpretation unnecessary but I think the hon Members will agree it is worth doing on a belts and braces basis. Hon Members will recall that the principal Ordinance that we passed intended and probably actually does exclude application to fiscal offences, and that is achieved because the word "offence" is defined in the principal Ordinance it says "offence does not include a fiscal offence". When reading the next Bill that we are about to debate in this House, it struck me on a reading that actually the success of the exclusion of fiscal offences depended on an interpretation, a logical interpretation it has to be said, but an interpretation nevertheless which I thought would benefit from being made explicit. Now, the Bill that we are amending says "Scope, section 3, unless otherwise stated under this Ordinance, shall apply in relation to criminal proceedings investigations et cetera". In other words, the scope clause does not use the word "offence" it uses the word "proceedings". Now lawyers would know that criminal proceedings must necessarily relate to an offence and therefore even though the scope is by reference to proceedings and fiscal offences are excluded from the definition of offence, unless somebody can come up with a circumstance in which there might be a criminal proceeding which does not involve an offence, but I think that we ought not to leave that unclear and therefore one of the things that this Bill is doing is that the definition of criminal proceeding is amended by inserting before "including criminal proceedings means proceedings relating to an offence". In other words, in the definition of criminal proceedings, which is what the scope clause referred to, we introduce the word "offence" which is not presently present in the definition of criminal proceedings, and that way we bring in by direct reference the limitations contained in the definition of the word "offence" which is where we have got the non-application to fiscal offences. So in that sense it is

simply belt and braces, or what most lawyers would probably consider as already achieved by the legislation.

The other point that we are amending is by introducing a definition of “civil proceedings” to be “civil proceedings does not include proceedings relating to fiscal matters”. Now the reason for this is as follows, that the scope clause allows the Ordinance to apply, in other words the scope clause applies the Mutual Legal Assistance Ordinance to all the types of situation that are listed (a), (b), (c), (d), (e), (f) and (g) in 3, and we have just been discussing (a) in relation to my previous point. Little (g) is civil proceedings joined to criminal proceedings as long as the criminal court has not yet given a final ruling in the criminal proceeding. So what that is saying is that one could have a criminal proceeding about something that is not fiscal at all.

There may be civil proceedings relating to fiscal matters, some tax authorities and some countries claim tax through civil proceedings. Therefore those fiscal civil proceedings could by the use of this sub-clause be joined to criminal proceedings that have nothing to do with fiscal proceedings and then they would not be saved by the definition of “offence”, because these are non-fiscal civil proceedings. So we add a definition of civil proceedings, which the Ordinance presently does not contain, to mean civil proceedings does not include proceedings relating to fiscal matters. So in other words, one cannot use little (g) to join civil proceedings that relate to fiscal matters to criminal proceedings that do not, and it is just again belts and braces, there is no suggestion that anyone was planning to use that route or might have used that route, but I think it just closes. I commend the Bill to the House.

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

HON F R PICARDO:

I have been reviewing the Hansard of our exchange on this Bill when it was first brought to the House, the original Ordinance, which is one of the first Ordinances that I had the honour to debate in this House with the Chief Minister. One of the things that we were calling for then was for a consideration of a definition of fiscal offences to be included in the Bill also. What the Chief Minister told us then, and I think it was not an unwise position to take, was that if we defined fiscal offences then we might find ourselves having to make amendments to that definition to ensure that it was as wide as we needed it to be and that somebody’s imagination did not somehow manage to stretch outside that definition. Therefore I think that this definition now of civil proceedings is useful because we had omitted to include the definition of civil proceedings for what was 5(1)(e) at the time but then became 3(1)(g) after our debate. So that part of the proposed amendment we will agree with. But in relation to the proposed addition to the definition of civil proceedings, I think we may have some difficulty in this respect. The scope clause makes a number of references itself already to criminal proceedings, that is clause 3(1) of the Ordinance as it stands, and in one of those references at 3(1)(b) there is a reference to criminal proceedings being criminal proceedings brought by the administrative authorities in a Schengen state or territory including Gibraltar, in respect of offences which are punishable either in Gibraltar or that state. I have checked all the other references to it and I think that there we will now have an element of repetition so it may be that perhaps it makes sense to remove the words “in respect of offences” where they now appear in 3(1)(b) as the very definition of criminal proceedings will now include the reference to proceedings relating to an offence. Apart from that it really is just a tidying up exercise. Reviewing the Hansard I see that at that time we were calling for a belt and braces exercise, so obviously this will be something which will find support in both sides of the House.

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 MUTUAL LEGAL ASSISTANCE (INTERNATIONAL) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to provide for mutual legal assistance in criminal matters between Gibraltar and reciprocating jurisdictions, 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, hon Members will see that this Bill is a substantial reproduction of the Mutual Legal Assistance (Schengen) Bill which we have just amended, and that it is drawn up incorporating the amendments we have just passed to the Schengen version of this Bill. What this Bill does is provide, on the same terms save for three important differences which I will now explain to the hon Members, the Schengen regime to non Schengen countries. Hon Members, those that are lawyers but I think that is only one of them, he who is a lawyer on the

Opposition side will be aware that Gibraltar's regime for providing assistance to other jurisdictions generally is in fact based on UK legislation which is 100 years old soon, the rest of the world has moved on from it, it is the old *commission rogatoire* system, letters of request, so that assistance can only be given by Gibraltar in the investigation of foreign crimes by foreign jurisdictions when there is proceedings afoot. That is the basis of the old *commission rogatoire* that the requesting jurisdiction could not invoke it unless there was proceedings afoot, basically that somebody had been charged with an offence. So that it was not available and Gibraltar was not able to assist any jurisdiction at the investigative stage and most of the rest of the world had moved away from the *commission rogatoire* system to what is called mutual legal assistance. The word legal assistance extending to the investigative stages before proceedings might be afoot. Well, in a sense, I am simply repeating in terms of what the new version is, the hon Members are familiar because we did it in the context of the Schengen countries in the Bill that we passed a few months ago and which we have just amended 10 minutes ago. In other words, the Mutual Legal Assistance (Schengen) Ordinance.

This is the Mutual Legal Assistance (International) Ordinance and it will provide a new regime for legal assistance between Gibraltar and non-Schengen countries, and for simplicity we simply choose to follow the Schengen regime so that we do not have two different regimes applicable, but as I say with three changes. Of course this Bill includes the definitions that we have just debated in the previous amendment and therefore excludes fiscal offences in exactly the same way as we have done for Schengen. The three amendments are these. The first actually is the one that I have just said that the terms civil proceedings and criminal proceedings are defined as we have just discussed. Clause 22 of this Bill is new and is not in the Schengen Bill. This clause ensures that the cost of assistance afforded to any state under this legislation, will be borne by the requesting state. That is not permitted under the Schengen Convention but it is permitted because it is voluntary legislation, we are free to do it here and I think that if wealthy and large

countries ask us to invoke law enforcement, investigative or judicial time and effort in assisting them in a case, I do not think that we should be left to bear the cost of that and that it should be borne by the requesting state. That is one difference.

The other difference is that Schedule 2 is also new. Schedule 2 is there because the Bill applies this Bill, unlike the Schengen one, applies only to states with which the Government have entered into mutual assistance agreements. So if the hon Members look, again this is not permitted under Schengen, the Schengen Convention is already an obligation between the parties to which the Schengen Convention applies. We were therefore not able in the case of Schengen to impose a condition of reciprocity, although of course there is reciprocity because all Schengen countries are bound by the Schengen Convention, but hon Members will see here that the definition of "state" on the first page of the Bill in section 2, clause 2 of the Bill, "state means", and the relevance of the definition of state is that that is basically who can benefit from this procedure, "state means" a state or other political sub-division of a state, or any territory falling under the jurisdiction of a state, (a) that is a party to an agreement with the Government on mutual legal assistance in criminal matters based on the principle of reciprocity; and (b) is included in Schedule 2." So this is not an automatic piece of legislation, this is a piece of legislation based on reciprocity. Of course we leave in place, the Evidence Ordinance is not being repealed, so any country that does not have reciprocity with us on this basis can continue to avail themselves of the existing legislation but this legislation is on the basis of reciprocity. In other words, no one can ask it of us that has not agreed with us to do it for us if we ask it of them. So there has to be an agreement and any country with which the Government signs such an agreement would then be included in the second Schedule. I want to make it perfectly clear that this is not legislation that we are doing as a matter of any international legal obligation, this is our desire that Gibraltar's Mutual Legal Assistance framework should be modern and up to date and should not expose Gibraltar to any accusation that we are not normal co-operators when serious criminal offences are

concerned. At the moment what happens is that countries who are all used to this mutual legal assistance model often ask us for help under the old system and we have to say "I am sorry, there is no statutory power or basis for it". We are investigating somebody for something heinous perhaps and the answer from Gibraltar is that we cannot help. That is capable and sometimes does expose us to private criticism from these countries that just do not understand how in this day and age Gibraltar does not have a statutory framework that can help in the same way as other countries normally do, but it is voluntary on our part there is no compulsion for us to do it, it is just therefore a domestically driven desire to modernise our positioning for the purposes of comity of nations when it comes to our international status and stature perhaps, is a better word, when it comes to our ability to co-operate with other countries in the fight against serious crime. I commend the Bill to the House.

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

HON F R PICARDO:

I note the comment that the Chief Minister has made in relation to section 22 which relates to costs and I ask him to confirm, simply confirm because I think this is right, that that is the reason why paragraph 7 of Schedule 1 has disappeared, which is the paragraph in the Schengen Convention Ordinance dealing with proceedings, and that that Ordinance at section 14 that deals with orders for costs. Just to confirm that when he rises. The second point which I would like to address is the Schedule 2 point which is this. Schedule 2 says "states to which the Ordinance applies" and we go back to section 2 for the definition of "state" and the Chief Minister has just taken us through that and the definition includes state or other political sub-division of a state. Could we find ourselves with a Schedule 2 that, for example, says the name of one of the cantons of Switzerland, or one in Germany, or perhaps I say this without thinking this through but perhaps, for example, Scotland if the UK or one part

of the political UK were to wish to come under the third party provisions for mutual assistance. Perhaps if the Chief Minister could address those points in his reply.

HON CHIEF MINISTER:

Yes, I can confirm precisely that indeed I would expect to find on that list entities that are not sovereign independent nation states. The fact that the title of the Schedule, which is of course empty as a Schedule because we have not yet signed an agreement with anybody, refers to states. Initially I thought the hon Member may be about to make the point that the title would be a misnomer because there could be things that are not states there. So the answer is yes, there could be things in there which are overseas territories or current dependencies, we could do an agreement with Jersey. I can also confirm his first point as to the reason why paragraph 7 of Schedule 1 is not there. Of course it would be in the agreements that we sign, it would be made clear that they would be bound by the cost so this is an element of the agreement that we would have to sign with countries that is imposed on the Government by statute. In other words, it is not for the Government to decide whether in this agreement costs are required or in that agreement costs are not, because the law says that it is only available if the other people pay the costs.

HON F R PICARDO:

One of the other points I should have made is to ask him that he said there were three differences, I was able to appreciate in his address two, if he could quickly enumerate them for me I will try and work out what the third one was.

HON CHIEF MINISTER:

Yes I did actually list three it is just that I was not referring to my speaking notes during my address. I started to explain that this Bill incorporates the amended definitions of criminal and civil proceedings and then I said there were three and when I looked at my speaking notes, in fact the first of the three items was that one which I had already spoken to, so there are three including that point. Two excluding that point.

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 EXPORT CONTROL ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to make provision enabling controls to be imposed on the exportation of goods, the transfer of technology, the provision of technical assistance overseas and activities connected with trade in controlled goods; and for connected purposes, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a framework piece of legislation to enable the Government to implement international obligations applicable to Gibraltar in the field of trade embargoes. United Kingdom has a similar piece of legislation which is the one that it uses. As our law currently stands we have no way of legislating in respect of international trade embargoes other than through primary legislation in this House, something which is clearly not appropriate for such technical matters and which invariably are a matter of obligation leaving usually very little scope for actual choice or option. There are exceptions to this, for example, trade embargoes imposed by the EU can be implemented by means of regulations made under the European Communities Ordinance which contains a provision to do it by regulation. However, even in this case, that is to say even in the case of embargoes made by the EU, the procedure cannot be used because the procedures and limits imposed by the European Communities Ordinance makes it a cumbersome piece of legislation to use and to rely on. A further exception, that is to say embargoes that can be implemented in Gibraltar by regulations, subsidiary legislation, would be embargoes related solely to the restriction of import and export controls which could easily be implemented through regulations made under the Import and Export Ordinances. But the reality is that embargo measures which are limited to the import and export of goods, the control, are actually now the exception rather than the norm. Most international trade sanction measures usually now include control on the movements of technology, know how and matters of that sort which could not be done under the Import and Export Ordinance. So clause 3 of the Bill enables the Minister to make regulations imposing controls on the export of goods. Sub-clause (6) enables such controls to be imposed in respect of the removal from Gibraltar of vehicles, vessels, aircraft, whether or

not they are moving under their own power or carrying goods or passengers.

Clause 4 enables regulations to be made to control the transfer of technology. Technology is defined as information, (including information comprised in software) that is capable of use in connection with (a) the development, production or use of any goods or software; (b) the development of, or the carrying out of, an industrial or commercial activity or an activity of any other kind whatsoever. Clause 5 enables controls to be imposed on the provision of technical assistance. Technical assistance is defined as services which are provided or used or which are capable of being used in connection with the development, production or use of any goods or technology. Clause 6 enables controls to be placed on trade controls. This is defined in relation to any goods as the prohibition or regulation of their acquisition or disposal, their movement or activities which facilitate or are otherwise connected with their acquisition, disposal or movement. Clauses 7 and 8 set the general framework within which controls under the preceding clauses may be imposed. Amongst others this includes the requirement that the controls must be in pursuance of international sanctions binding on Gibraltar. Clauses 9 to 10 make consequential provisions. For example, the Minister may require the issuing of licences, the keeping of records and such like. In addition, such orders may bind the Crown if the Minister deems it appropriate. Clause 10 prevents orders being made which restrict a person's fundamental right to privacy. Clause 11 provides to the Minister power to issue guidance notes on the operation of any order and clause 12 for an annual report to be laid by the Minister before this House of the exercise of his powers under this Ordinance. Finally, clause 13 enables the Minister to modify the Schedule which sets out in detail the circumstances in which orders may be made.

So in commending the Bill to the House I would remind the House that this is not a piece of legislation to give effect in Gibraltar to a particular sanctions order. This is not the United Nations Sanctions Order against this country or that country, this

is a framework piece of legislation to create the range of powers so that the Minister can in future transpose into the laws of Gibraltar international sanctions measures which are binding on Gibraltar without the need for a primary ordinance in each case. Often these sanctions are removed and then we have to repeal and it is not usual to achieve what are usually temporary sanctions orders by primary legislation that goes into the Statute Book of Gibraltar, that is the purpose, I commend the Bill to the House.

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

HON DR J J GARCIA:

In general terms Opposition Members will be supporting the Bill but we would welcome some clarification from the Chief Minister in relation to section 10 of the Bill. In his contribution the Chief Minister said that this section prevents an order from being made which restricts a person's right to privacy, if I heard him correctly. Having looked through it, what it actually says is that "the Minister may not make a control order which has the effect of prohibiting or regulating any of the following activities". Then it goes on to list three activities, that is (a) the communication of information in the ordinary course of scientific research; (b) the making of information generally available to the public; or (c) the communication of information that is generally available to the public. But then it says "the Minister may not, unless the interference by the order in the freedom to carry on the activity in question is necessary (and no more than is necessary)". Then there is also a sub-section (2) to that section 10 which says that the question as to whether such interference is necessary shall be determined by the Minister by reference to the circumstances prevailing at the time the order is made and having considered the reasons for seeking to control the activity in question and the need to respect the freedom to carry on that activity. My question is this, obviously the drafting makes it entirely subjective as to whether the reasons why the Minister

interferes in these freedoms or not is entirely up to him, just taking into account the circumstances prevailing at the time the order is made and having considered the reasons for seeking to control the activity and balancing that with the need to respect the freedom to carry it out. My question is simply this and this is the point of clarification, we are supporting the Bill anyway. Is this taken from the UK legislation or is this a unique Gibraltar input? If it is we would like to know why that particular drafting has been chosen and whether it might not have been better to actually list the criteria or the conditions under which the Minister could restrict those freedoms. Having said that and awaiting clarification from the Chief Minister, the Opposition will be supporting the Bill.

HON CHIEF MINISTER:

Yes, this is a replication of the same provision in the Export Control Act, as indeed is much of the rest of the Bill. Precisely for that purpose that the hon Member has said we think it wise to stick to the language in the UK. This is language which over a period of time will be subject in the UK to judicial interpretation. The courts of the UK will interpret these words, Ministers in the UK may be subject to judicial review on their decisions, therefore there will be a body of law in the UK courts which will guide Gibraltar and Gibraltar courts in applying this. If we use different language then the whole body of UK common law jurisprudence will simply be available to Gibraltar for this purpose, and precisely because it is in an area of curtailment of potential curtailment, what some people would regard as privacy rights and things of that sort and liberties, it is important that we operate it in Gibraltar in a way that most exposes us to judicial scrutiny of the language and the way it is operated. Of course the hon Member will understand why (a), (b) and (c) are there, because this is not just about the transfer of goods. If this was just about the transfer of goods then to talk about publication and information, we are talking about the transfer of technology. I suppose as an extreme example somebody could sit in Gibraltar broadcasting by ham radio into sort of North Korea the

sort of latest blueprint for the manufacture of a nuclear plant or something, that could be achieved unless the Minister restricted the right to make information generally available to the public. Well if it is made generally available to the public it is also being made available to the people that one is trying to prevent it from reaching. But I agree with the hon Member that this section does raise issues. It could, but it is unlikely to happen, but it could be important and of course as in the exercise of all Ministerial powers it is subject to the supervision of the courts in the manner in which it is exercised.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE GIBRALTAR MERCHANT SHIPPING (REGISTRATION) (AMENDMENT) ORDINANCE 2005

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Merchant Shipping (Registration) Ordinance 1993, be read a first time.

Question put. Agreed to.

SECOND READING

HON J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill before the House amends the Gibraltar Merchant Shipping (Registration) Ordinance 1993 in order to enable the Maritime Administrator to terminate registration of a Gibraltar ship which is over 20 years old and a change of its operator or ownership occurs. The proposed amendment also provides that if the Minister specifically authorises a ship to continue on the register, this provision should not apply. This Bill will help the Government to terminate registration of a ship which is over 20 years and a change of its owner or operator has taken place. I commend the Bill to the House.

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

HON DR J J GARCIA:

The Opposition will be supporting the Bill but there is again an area of clarification which I would certainly welcome if the Minister could explain. We welcome obviously that ships which are over 20 years old and given that these are likely to be perhaps the least safe and least environmentally friendly that there is a mechanism for their termination from the Registry if that happens, we obviously welcome that point. We note that when we insert the amendment into the legislation it would actually read "without prejudice to the interests of a mortgagee in a ship registered under this Ordinance, the Maritime Administrator may in his discretion terminate the registration of any ship registered under this Ordinance if the ship is over 20 years old and a change of its operator or ownership occurs, unless the Minister authorises the ship to continue on the Register". Our question is simply this, given that it is a discretion of the Maritime Administrator to decide whether to

terminate the registration or not, why has a clause been inserted which allows the Minister to overrule what the Maritime Administrator may or may not wish to do? Pending that clarification Opposition Members will be supporting the Bill.

HON J J HOLLIDAY:

My understanding is that the Ordinance actually does stipulate that it is the Minister who actually does have to give the authority for a ship over 20 years to be registered. Obviously the Minister operates on the technical advice provided by the Maritime Administrator because at the end of the day it is the Maritime Administrator or the Ship Registry Surveyors who actually carry out the surveys on the ships and inspect the ships. So therefore on their advice it is the Minister with responsibility for shipping who would act accordingly.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

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

Question put. Agreed to.

**THE SOCIAL SERVICES AGENCY (AMENDMENT)
ORDINANCE 2005**

HON MRS Y DEL AGUA:

I have the honour to move that a Bill for an Ordinance to amend the Social Services Agency Ordinance 2002, be read a first time.

Question put. Agreed to.

SECOND READING

HON MRS Y DEL AGUA:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this simple and short Bill amends the Social Services Agency Ordinance 2002 to ensure that the Social Services Agency does not employ any staff without the prior consent of the Government. Hon Members will note that section 6(2) of the 2002 Ordinance makes it the duty of the Agency, amongst other things, to employ staff. However, there is a proviso that it can only do so in as far as it is mandatory to do so by Government and the Government provides sufficient resources therefore. Notwithstanding this proviso a certain number of staff have been employed by the Agency without the required Government mandate or provision of resources. The Bill before this House seeks to take an additional step to ensure that no staff is employed by the Social Services Agency without the prior consent of Government. I commend the Bill to the House.

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

HON C A BRUZON:

I have listened attentively to the argument put to the House by the Minister but I still do not feel that the amendment is logical. If Government had not changed the status quo some years ago this would not be necessary. It is the contention of the Opposition that Social Services should be handled and be the responsibility of Government in the sense that it is handled by a Government Department. What we are being asked to do now is to vote in favour of an amendment to ensure that the Agency does not employ any staff without the prior consent of Government. It seems to us that this is illogical so we shall be voting against the amendment.

HON CHIEF MINISTER:

I wonder whether the hon Member may re-open his mind to reconsider the basis upon which he does not want to support the Bill. Is he aware that the vast majority of the people, in fact everybody that is an employee of the Agency never was a Civil Servant, these are people that used to be employees of the Dr Giraldi Trust, or a number of organisations none of which were Government and none of which were Civil Servants and which the Government have brought closer to the public sector. These are people that are being brought into the public sector from where they were not before into an Agency, the Government are not at liberty to say to employees of the Dr Giraldi Trust "you are now Civil Servants", it is not that easy to recruit. The Government can not just designate people Civil Servants so therefore the hon Member's objections did not sound very logical to me anyway, but quite apart from our disagreement to whether they were logical, are actually built on a false premise. He appears to think that this is like the Port Authority or one of these other authorities where people and functions were in the Civil Service and are being exported. This is the other way round this is as close to importation into the public service as rules and conventions permit the Government to bring people and functions that were previously outside the Civil Service in

organisations that had nothing to do with the Government. So he can continue to vote against but he would not be justified by the reason that he has given in this House, which is a false premise.

HON J J BOSSANO:

Let me say that I do not agree with the Chief Minister that everybody that is in the Social Services Agency was previously in the Dr Giraldi Trust.

HON CHIEF MINISTER:

I did not say that, I said the vast majority of people and the ones that are not seconded are from within the Agency.

HON J J BOSSANO:

All right, they are seconded and one is not clear whether the intention is that as secondees retire they will continue to be replaced by new secondees or by new recruits direct. The indications in other areas are, but the point is of course that by bringing in an amendment which requires the prior consent of the Chief Secretary of the Civil Service to employ anybody in any grade, is almost treating them for recruitment purposes as if they were part of the Civil Service, but what perhaps is even more peculiar is that the rationale for the need to do this is that the Agency has apparently been employing staff in breach of what the Ordinance provides, which is that they may not employ staff unless directed by the Government and unless the Government have provided the resources. That is what the Minister has said in moving the Bill in the House and in asking for our support. Now given that the definition of the Agency is the Chairperson of the Agency who is her, and the components of the management board selected by her, what she is telling the House is that she (who is the Agency) has in fact not

complied with her legal requirement which is only to employ the staff which she in her other hat as a Minister under collective responsibility has decided to provide resources for and instructed the Agency to employ, and that because she is incapable of exercising self control we should burden the Chief Secretary even further by requiring him to control her. I think it is not a sufficiently compelling argument for us to support.

HON CHIEF MINISTER:

The Leader of the Opposition is, as always, searching on his feet, it is not a bad effort I have to say, but he is going to have to do better than that. There is no point raising a smokescreen about whether the Chairperson and the Minister have complied or not complied because that smokescreen in addition to being a smokescreen is wholly false and inaccurate. The Ordinance says that the executive authority of the Agency is vested in the Chief Executive not in the Chairman, and therefore the Chairman is not involved in the day to day responsibilities, it is not the Chairman that has the powers it is the Chief Executive that has the powers and it is the Chief Executive that exercises those powers. I am surprised that the hon Member, who is supposed to be scrutinising the Government to ensure that we do not spend as little as possible of unvoted funds, he knows that this is an activity which is exclusively funded by the Consolidated Fund. Now, it is completely unacceptable for anybody to employ people which obliges the Government, and therefore this House, to provide them with funds after the event. One can imagine what would happen to public finances if everybody sort of spent, well in fact it happens quite a lot and the hon Members like to try and persuade people that when the Government try to control it, it is proof that the Government are short of money, but all the Government actually do is say to people "look you cannot spend funds that have not been approved without approval" and this is such a case. This is not the first time that the hon Members see this formula of words and the last time they saw it they voted in favour of it. This language is taken directly from the Ombudsman Ordinance

where for the same reason, namely that it is funded by public funds, the Ombudsman cannot employ people without the consent of the Chief Secretary. In other words, it is not the consent of the Chief Secretary to the person that is to be employed that is required but to the employment. In other words, to the incurring of public expenditure which the Government then have to provide. That is all, to protect the Government from the Chief Executive employing people for which the House has not provided him with funding. That is a measure that the Government require in order to control the employment. Hon Members can of course and will of course vote as they like but I do not think we ought to have a phone-in debate in this House, if we want to oppose or support let us oppose and let us support but let us do it on grounds that are meaningful and not on grounds which are in fact a false premise. The hon Member either believes that the Government should have some control over the number of people that are employed in the Social Services Agency, for which the Government and this House then have to provide the money, or he does not believe that and that is the basis upon which the decision to support or oppose the Bill should be made.

HON J J BOSSANO:

Let me say that the issue is not how many people the Agency should employ or should not employ, in fact we can only do that in this House indirectly because all the arguments the Chief Minister has used about public spending before and he has talked about the Government Departments spending more than the amount of money voted in the House, but of course the House votes really technically and legally a subvention to the Agency and if the Agency finishes the year having spent more, we then have to bring in the Supplementary Appropriation Bill which is what we are going to be doing in this meeting of this House. Of course, however much he tries to compare this with the Ombudsman, the Ombudsman is an independent entity which has to work within the finance provided by this House but it is not an entity that has a clause saying that a Minister is the

Chairman of a body that grants it, that makes the policy, or that they do it as directed by the Government. In the section that we are amending it says, "without prejudice to the generality of the provisions of sub-section (1) it shall be the duty of the Agency to do the following things in so far as it is mandatory to do so by the Government and the Government provide the resources". One of the things it has to do is under (b) employ a Chief Executive Officer, employ other staff as necessary and employ a Finance Officer. Now, the fact that the orders and the directions of the Agency are given under the hand of the Chief Executive does not alter, subject to the legal interpretation of this being other than the common linguistic one, it does not alter the fact that the policy maker saying "we want you to employ a Chief Executive Officer" is the Agency, not the Chief Executive Officer. Even though he carries out that policy and that the Agency is constrained in the policy as to whether it should have a Chief Executive Officer or not have one on the basis of knowing that it is what the Government want it to do and knowing that it is what the Government are providing or will provide the resources for it to do. What is the House being asked to do now? Well look, even if the Government want the Agency to do it, even if the Agency, the Minister and the rest of the Board appointed by her decide that they want to do it, if the Chief Secretary says that he does not agree that there should be a Chief Executive Officer of the Agency they cannot go ahead and employ the Chief Executive. Presumably, unless we are giving a power to the Chief Secretary putting him above the Chief Minister, what is really going to happen is that he is going to stick his head out of the door and find out whether the Chief Minister wants it done. Well we might as well call a spade a spade and say the Minister for Social Services may not do anything without the permission of the Chief Minister and save ourselves a lot of time of debate. It is certainly something that ought not to be necessary really. If people have employed people when they should not have done they ought to have their knuckles rapped and be told "look you are going to get into trouble if you do this again", it is a very peculiar thing to do and we do not think it is a good thing to do and we will not support it, quite independent for a different reason.

HON CHIEF MINISTER:

For a wholly different reason.

HON J J BOSSANO:

Well yes, the Chief Minister's persuasive powers is such that when he addressed himself to the previous reason. *[Interruption]* No it is not a lifeboat, the lifeboat was the one that the he launched when I was gracious enough to give way to him, but which fortunately has sank before I could take part in it.

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

For the Noes: 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

The Bill was read a second time.

HON MRS Y DEL AGUA:

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

Question put. Agreed to.

THE ELDERLY CARE AGENCY (AMENDMENT) ORDINANCE 2005

HON MRS Y DEL AGUA:

I have the honour to move that a Bill for an Ordinance to amend the Elderly Care Agency Ordinance 1999, be read a first time.

Question put. Agreed to.

SECOND READING

HON MRS Y DEL AGUA:

I have the honour to move that the Bill be now read a second time. Mr Speaker, again this Bill amends the Elderly Care Agency Ordinance 1999 to ensure that the Elderly Care Agency does not employ any staff without the prior consent of the Government. The Elderly Care Agency Ordinance is drafted along the same lines as the Social Services Agency Ordinance. It also makes it a duty of the Agency to employ staff in so far as it is mandatory to do so by Government, and the Government provides sufficient resources therefore. Although the Elderly Care Agency has not employed any staff without the approval of Government, Government seeks to amend this Ordinance for the sake of consistency and to ensure that it does not happen in the future. I commend the Bill to the House.

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

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

For the Noes: 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

The Bill was read a second time.

HON MRS Y DEL AGUA:

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

Question put. Agreed to.

THE GIBRALTAR SPORTS AUTHORITY (AMENDMENT) ORDINANCE 2005

HON C BELTRAN:

I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Sports Authority Ordinance 2002 to make provision for a Gibraltar Sports and Leisure Authority, be read a first time.

Question put. Agreed to.

SECOND READING

HON C BELTRAN:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill amends the Gibraltar Sports Authority Ordinance 2002 in order to extend the remits of the Authority to cover leisure activities as well as sports, and to make small changes to the management of the Authority. The Bill contains the following clauses. Clause 2(a) which amends the Long Title to include reference to leisure. Clause 2(b) which inserts the word "Leisure" into sections 1 (1), 2, in the definition of "Authority", 4(1) and 23(1). Clause 2(c) which substitutes the Authority's new acronym, that is to say, GS&LA for the old one. Clause 2(d) which substitutes a new section 3(1) and the effects of the new sub-section are as follows. First of all the Sports Development and Training Officer will no longer be required by the Ordinance to be a member of the Authority, secondly the Minister may appoint three persons to be members of the Authority.

At this point I would like to say that the Government wish to make a small amendment to clause 2(e) of the Bill and have provided the House with a motion to that effect, which I believe has now been circulated to all Members. Clause 2(e) as

contained in the published Bill, removes the reference to (c) in section 3(2) of the Ordinance and is a tidying up provision. Further to the Government's amendment, clause 2(e) now also amends section 3(3) of the Ordinance consequential on the new section 3(1) introduced by clause 2(d) of the Bill. It provides that the reference to paragraphs (d) and (e) shall be changed to a reference to paragraphs (c) and (d). Clause 2(f) which amends section 6(2), to include appropriate references to leisure. Clause 2(g) which amends the persons who can be members of the Board of Management of the Authority, to include such persons as may be designated by the Minister, and clause 2(h) which empowers the Minister to make such regulations as are necessary for the purposes of the Ordinance. This Bill extends the remit of the Gibraltar Sports Authority to include leisure activities and also makes small changes to the management of the Authority. I commend the Bill to the House.

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

HON MISS M I MONTEGRIFFO:

I would just like to say that our position regarding the Sports Authority remains exactly the same as when the Government first brought the Sports Authority Bill to this House in February 2002. There is nothing that the Minister has said today to make us change our minds. So what I had to say in my contribution three years ago in this House is as consistent with our position today as it was then. Therefore, as we did then, we will also be abstaining on this Bill.

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 Miss M I Montegriffo
The Hon F R Picardo
The Hon L A Randall

The Bill was read a second time.

HON C BELTRAN:

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

Question put. Agreed to.

THE WEAPONS OF MASS DESTRUCTION (AMENDMENT) ORDINANCE 2005

HON F VINET:

I have the honour to move that a Bill for an Ordinance to amend the Weapons of Mass Destruction Ordinance 2004, 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 amends the Weapons of Mass Destruction Ordinance 2004 in order to correct some typographical errors and omissions. The Convention on the prohibition of the development, production and stockpiling of bacteriological, biological and toxic weapons and on their destruction of 1972, and the Convention on the prohibition, development, production, stockpiling and the use of chemical weapons and on their destruction of 1993 were implemented by the Weapons of Mass Destruction Ordinance 2004. In view of the technical nature and the size of the 1993 Convention, a few typographical errors and omissions occurred at the time of the publication of the legislation. So in order to ensure the true reflection of the implementing Conventions, the Weapons of Mass Destruction Ordinance 2004 is required to be amended. The Bill will help the full implementation of the aforesaid Conventions. 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.

SUSPENSION OF STANDING ORDERS

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the Committee Stage and Third Reading of Bills.

Question put. Agreed to.

COMMITTEE STAGE

HON ATTORNEY GENERAL:

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

1. The Financial Collateral Arrangements (Amendment) Bill 2005;
2. The Deposit Guarantee Scheme (Amendment) Bill 2005;
3. The Taxation (Savings Income) (Amendment) (No. 2) Bill 2005;
4. The Mutual Legal Assistance (Schengen Convention) (Amendment) Bill 2005;
5. The Mutual Legal Assistance (International) Bill 2005;
6. The Export Control Bill 2005;
7. The Gibraltar Merchant Shipping (Registration) (Amendment) Bill 2005;
8. The Social Services Agency (Amendment) Bill 2005;

9. The Elderly Care Agency (Amendment) Bill 2005;

10. The Gibraltar Sports Authority (Amendment) Bill 2005;

11. The Weapons of Mass Destruction (Amendment) Bill 2005.

THE FINANCIAL COLLATERAL ARRANGEMENTS (AMENDMENT) BILL 2005

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

THE DEPOSIT GUARANTEE SCHEME (AMENDMENT) BILL 2005

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

THE TAXATION (SAVINGS INCOME) (AMENDMENT) (NO. 2) BILL 2005

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

Clause 2

HON J J BOSSANO:

I beg to move the amendment of clause 2 in sub-clause (2) by replacing the words in the definition of 'third country' after the word 'country' to read: "other than a Member State as defined in this section and thus includes the United Kingdom". The definition of 'third country' should read as follows:

““third country” means a country, other than a Member state as defined in this section and thus includes the United Kingdom”.

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 MUTUAL LEGAL ASSISTANCE (SCHENGEN CONVENTION) (AMENDMENT) BILL 2005

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

THE MUTUAL LEGAL ASSISTANCE (INTERNATIONAL) BILL 2005

Clauses 1 to 25, Schedules 1 and 2 and the Long Title – were agreed to and stood part of the Bill.

THE EXPORT CONTROL BILL 2005

Clauses 1 to 13, the Schedule and the Long Title – were agreed to and stood part of the Bill.

THE GIBRALTAR MERCHANT SHIPPING (REGISTRATION) (AMENDMENT) BILL 2005

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

THE SOCIAL SERVICES AGENCY (AMENDMENT) BILL 2005

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

THE ELDERLY CARE AGENCY (AMENDMENT) BILL 2005

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

THE GIBRALTAR SPORTS AUTHORITY (AMENDMENT) BILL 2005

Clause 1 – stood part of the Bill.

Clause 2

HON C BELTRAN:

I have an amendment in clause 2, this was circulated earlier. Clause 2(e) is amended by inserting the words “and in section 3(3) substituting “(c)” and “(d)” for “(d) and (e)” after the words “(a), (b) or (c);”.

Clause 2, as amended, stood part of the Bill.

The Long Title – stood part of the Bill.

THE WEAPONS OF MASS DESTRUCTION (AMENDMENT) BILL 2005

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

THIRD READING

HON ATTORNEY GENERAL:

I have the honour to report that the Financial Collateral Arrangements (Amendment) Bill 2005; the Deposit Guarantee

Scheme (Amendment) Bill 2005; the Taxation (Savings Income) (Amendment) (No. 2) Bill 2005, with amendments; the Mutual Legal Assistance (Schengen Convention) (Amendment) Bill 2005; the Mutual Legal Assistance (International) Bill 2005; the Export Control Bill 2005; the Gibraltar Merchant Shipping (Registration) (Amendment) Bill 2005; the Social Services Agency (Amendment) Bill 2005; the Elderly Care Agency (Amendment) Bill 2005; the Gibraltar Sports Authority (Amendment) Bill 2005, with amendments; and the Weapons of Mass Destruction (Amendment) Bill 2005, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Question put.

The Financial Collateral Arrangements (Amendment) Bill 2005; The Deposit Guarantee Scheme (Amendment) Bill 2005; The Taxation (Savings Income) (Amendment) (No. 2) Bill 2005; The Mutual Legal Assistance (Schengen Convention) (Amendment) Bill 2005; The Mutual Legal Assistance (International) Bill 2005; The Export Control Bill 2005; The Gibraltar Merchant Shipping (Registration) (Amendment) Bill 2005; and The Weapons of Mass Destruction (Amendment) Bill 2005, were agreed to and read a third time and passed.

The Social Services Agency (Amendment) Bill 2005; and the Elderly Care Agency (Amendment) Bill 2005.

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 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

The Bills were read a third time and passed.

The Gibraltar Sports Authority (Amendment) Bill 2005.

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 Miss M I Montegriffo
 The Hon F R Picardo
 The Hon L A Randall

The Bill was read a third time and passed.

SUSPENSION OF STANDING ORDERS

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the First Reading of a Bill.

Question put. Agreed to.

THE SUPPLEMENTARY APPROPRIATION (2004/2005) ORDINANCE 2005

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending on 31 March 2005, be read a first time.

Question put. Agreed to.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 23 June 2005, at 2.30 pm.

Question put. Agreed to.

The adjournment of the House was taken at 4.35 pm on Thursday 12th May 2005.

THURSDAY 23rd June 2005

The House resumed at 2.30 pm.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

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 - Attorney General

IN ATTENDANCE:

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

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table the 2004 Tercentenary Receipts and Payments Account.

Ordered to lie.

The Hon the Minister for Trade, Industry and Communications laid on the Table an amendment to the Tourist Survey Report 2004.

Ordered to lie.

The Hon the Minister for Education, Employment and Training laid on the Table the Employment Survey Report for the period ended October 2004.

Ordered to lie.

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

1. Consolidated Fund Reallocations – Statement No. 9 of 2004/2005;

2. Consolidated Fund Pay Settlements – Statement No. 10 of 2004/2005;
3. Consolidated Fund Supplementary Funding – Statement No. 11 of 2004/2005;
4. Improvement and Development Fund Reallocations – Statement No. 1 of 2004/2005;
5. The Report and Audited accounts of the Gibraltar Heritage Trust for the year ended 31st March 2004.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

THE SUPPLEMENTARY APPROPRIATION (2004/2005) BILL 2005.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Supplementary Appropriation (2004/2005) Bill 2005 be now read a second time. Mr Speaker, the purpose of the Bill is to create additional monies for the Consolidated Fund for the last financial year 2004/2005. The Bill is in two parts. The first part of the Bill is for £8.1 million comprising £750,000 for departmental recurrent spending and £7,350,000 for increased contributions to statutory bodies. The second part of the Bill is for exceptional expenditures of £2.2 million. Classifying such expenditures as one-off and below the line is to facilitate sharing recurrent departmental spending year on year on a more comparable basis. If approved by the House the reversal of supplementary provisional allocations for

spending on some exceptional items this financial year totalling £1,500,000 will be reversed and the monies reallocated as necessary. The explanatory memorandum explains that this additional appropriation being sought, totalling £10.3 million, is covered by higher than anticipated revenues. The Consolidated Fund recurrent surplus is now projected at £2.9 million in the last financial year and after taking account of exceptional items is £700,000, both of which are broadly in line with the approved estimates of 2004/2005. All the heads of expenditure affected are identified in the Bill together with the specific requirements for the funds being set out in full in the explanatory memorandum and further amplified in the Statement of Supplementary Estimates No. 1 laid in the House previously. Mr Speaker, the Chief Minister will be explaining the Government's funding requirements in more details. I commend the Supplementary Appropriation Bill (2004/2005) 2005 to the House.

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

HON CHIEF MINISTER:

Mr Speaker, I am not sure that there is a huge amount of additional detail that can be given beyond the very considerable amount of detail set out in the Explanatory Memorandum of the Bill. Hon Members will recall, I think it was last year they expressed the preference that this should be done in a separate Bill rather than as we did it last year albeit as a separate part of the main Appropriation Bill. Hon Members expressed a view about the propriety or lawfulness of not doing it this way, we do not agree and others do not agree that their rights on the legal requirements that it should be done in this way, but it makes no difference to the Government and if Opposition Members have a preference that it should be done in this way then the Government have no difficulty in moving two Bills instead of just one Bill as we moved last year.

Mr Speaker, as has been said the total projected departmental forecast outturn for 2004/2005 of £150 million includes departmental overspends of over £11 million and savings of nearly £900,000, but these savings cannot be used for virement purposes given that reallocations between heads of expenditure are not permitted. Of the overspend some £3 million is being met from supplementary funding provision, thus the remaining £8.1 million, the subject matter of this Bill, also includes some slack to cover the risk of departmental returns not being 100 per cent consistent with the forecast outturn returns that they have made to the Treasury. That £8.1 million represents the balance of the additional monies being sought in this Supplementary Appropriation Bill in respect of last year's expenditure. This, together with the exceptional items to which the Financial Secretary has referred, makes up the £10.3 million which is the total amount covered by this Bill.

When I address the House on the next Bill, that is to say the Appropriation Bill, I will be giving to the House a fuller explanation of why we have modified the presentation of exceptional non-recurrent items and hon Members will see that the presentation now allows the House to read the figures easily both ways. Those Members that are particularly interested in seeing what the recurrent revenue and expenditure position is and be able to compare it one year to another will be able to do so. Those who are not just interested in that but also interested in the overall expenditure position will be able to do that too.

Of the £8.1 million being sought in this Bill £2.9 million relates to the Gibraltar Electricity Authority and is to clear up the whole of the deficit of the Electricity Authority as at the end of March, which hon Members will recall included a deficit carried forward at the beginning of the year from the previous year, and that amounts to £2.9 million, we have already estimated that we would use £1.5 million to clear the Electricity Authority's operating deficit. In fact we have cleared £4.4 million worth of deficit hence the extra £2.9 million. The £2.9 million plus the £1.5 million is the £4.4 million. The operating deficit itself can be explained roughly as follows. £600,000 less than estimated was

collected in consumer electricity charges, £1.2 million was under-estimated as a result of an error in the Authority's calculation of its wage bill and therefore the figure that got into the last year's estimates and therefore the figures that this House approved, were under-stated so that is not so much a question of excess expenditure but rather an understatement by error of the figure bid for in the department's last year's bid and also an increase of £1.1 million in the price of fuel used for electricity generation last year. £580,000 is attributable to the Social and Civic Affairs head and the contribution to the Elderly Care Agency and hon Members will be aware by now that the forecast outturn for the Elderly Care Agency for last year shows projected recurrent expenditure at £4 million, which is that increase of £512,000 on the Approved Estimate of £3.5 million. The overspend is mainly due to an increase in the number of residential places by 65 to 135 with consequential increases in staffing and other costs. £720,000 additional appropriation expenditure is sought in respect of the Social Services Agency, mainly to cover an excess expenditure of £348,000 in personal emoluments and £340,000 to fund an increase in relief cover requirement. £3.15 million is sought as additional funding for the Gibraltar Health Authority. The latest forecast outturn for last year shows that the total expenditure was £46.6 million, that is the total recurrent expenditure on health last year, an increase of £3.3 million on the approved estimate of £43.3 million. The contribution therefore required to balance the GHA's books, that is to say the contribution from the Consolidated Fund given its other sources of revenue, is just over £26 million, an increase of £3.5 million over the Approved Estimate sum. The main overspends over the Estimates are GPMS prescriptions which ended up costing £1.7 million more than estimated. Relief cover costs, that is to say when consultants and doctors have got to be brought in to cover for absent doctors, that cost an additional £1 million and the cost of medical gases and tests ended up costing £374 more than estimated. £600,000 is required additionally for Subhead 15 Private Sector Fees for Legal Notices. The latest forecast outturn for 2004/2005 shows the projected expenditure under Subhead 15 at £862,000, an increase of £612,000 on the Approved Estimate of £250,000

which turned out to be inadequate. The overrun is largely due to demand-led legal representation and advice on such things as EU State Aid inquiry, tax reform and also funding for sporting federation litigation. As I say, the total projected forecast outturn for Head 8A – No 6 Convent Place, is £8,257,000 an increase of just over £650,000 against the £7.6 million provided for. The supplementary funding provision sought is £150,000 supplementary funding as approved in the Estimates is fully committed and this small additional supplementary funding is sought as a contingency to cover the risk of underestimated departmental expenditure outturns together with any Treasury adjustments that may be necessary.

Mr Speaker, hon Members will see on this Bill, and as I say I will be giving a further explanation of this when we come to debate the Estimates in the next Bill, that there are three items of expenditure last year which are not recurrent in nature, the supplement of the Police overtime historic settlement, the cost of the Clinical Governance Review, which is obviously a one-off thing, and also the contribution to the Tercentenary Fund, well that should not reoccur at least for another 300 years and then it would not be called the Tercentenary Fund. Hon Members will see therefore that in terms of the debate on the size of last year's Consolidated Fund budget surplus, it is one figure if stated overall revenue and expenditure and a higher figure if it is stated as the recurrent and one will see when I present the next Bill that it will be stated in both forms so that the House has a reference point for seeing what is the recurrent expenditure position. The figures will remain for the overall position so if hon Members want to take the view that expenditure is expenditure, there is a figure for a deficit on that basis. If on the other hand the House is interested in knowing in terms of expenditure that repeats itself, in other words, in terms of the figures so that we can compare one year to the other undistorted by things in the previous year that are not going to reoccur, the figures are provided in this way so that hon Members can see what their total is. Of course all comes from the Consolidated Fund it is no different and it is simply a question of how they are presented and it is all annual Consolidated Fund expenditure, it is really

just broken down into recurrent and exceptional non-recurrent expenditure on the other hand. So this is really all that I can say to add to what the Hon Financial Secretary has said and a lot of what I have said is actually in the explanatory memorandum, I have said it just to get it on Hansard for the purposes of the records of the House. I commend the Bill to the House.

HON J J BOSSANO:

Mr Speaker, we raised two objections to the way it was done last year. One was that it should form part of one Bill and therefore when we were talking on the general principles we argued that we might take one position on the general principles of the Supplementary of the preceding year and a different view on the general principles of the expenditure of the current year, and that was one of the arguments where we said we did not approve of what was an innovation because the way it is being done this year is the normal way. The other thing to which we objected of course was the fact that the Supplementary Appropriation provision last year was simply to put the money in the Supplementary Appropriation Subhead of the preceding year. That is to say, here we were in June putting money in theory in the pocket that existed in the April of the previous year so that it could be used during the year for funds that had been spent. Well the argument was that is not what that pocket is there for because by now not only do we know what it is for, we have actually spent it, it is not cash any more what we are doing in situations like this is of course effectively giving the authority of the House for expenditure that has already taken place and consequently since the money has not been spent it means that the Treasury has obtained an advance to pay off bills and now that advance is being cleared by the authorisation of the House for that expenditure that had taken place. Of course on this occasion we are being told exactly where each element is going to be charged to and an explanation of what it is for, which was not available last time round, and in fact the only element that is

similar to last year is the £150,000 and even for that we have had an explanation which in the context of the fact that we are being told that it may be that since the £3 million is already totally distributed there might be a need to make adjustments and that is a sensible thing because normally the Supplementary Appropriation Head is intended not to be so well calculated at the beginning of the year and that it is correct down to the last penny, so it is not unreasonable. Quite often it does not get totally used and when we get the actual figures it is often the case that the final result on the Consolidated Fund shows a different figure from the estimated outturn precisely because of this kind of adjustment. So we have got no problem when it is a small amount like that and an explanation like the one that we have been given. Therefore both of our concerns have been addressed which means we have no problem supporting the Bill.

Question put.

Agreed to.

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

THE APPROPRIATION (2005/2006) ORDINANCE 2005

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending with the 31st March 2006, be read a first time.

Question put.

Agreed to.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, I will as is customary be confining my contribution at this Second Reading to an outline of the contents of the Appropriation Bill. The Hon the Chief Minister will be presenting the Government's budget for the financial year 2004/2005. Mr Speaker, briefly the Appropriation Bill is in three parts. In the first part the House is being asked to appropriate £148,676,000 from the Consolidated Fund for departmental spending. A further £28.7 million Consolidated Fund charges which do not require the appropriation of the House brings the Government's total estimated recurrent expenditure to £177.4 million. Secondly, the House is being asked to vote in the second part of the Bill a £560,000 contribution for non-recurrent expenditure or exceptional items of expenditure from the Consolidated Fund reserve. The third part of the Bill seeks the appropriation of up to £24,600,000 in Improvement and Development Fund spending on capital and economic projects. Due to the high level of the projected revenues of the Fund, appropriating a contribution from the Consolidated Fund will not be required in this financial year. Details of all this planned expenditure together with the revenue is set out in the Government's Estimates of Revenue and Expenditure which were laid in the House towards the end of April. The explanatory memorandum to the Bill sets out that the Government's total Consolidated Fund budget for the current financial year of £178 million is to be financed by projected revenue of over £181 million. The Improvement and Development Fund appropriation of £24.6 million is to be financed primarily from capital receipts and a small amount of EU funding as shown in the Estimates Book. Finally, I would draw hon Members' attention to clause 5 of the Bill which provides that supplementary provision can be applied to any of the heads of expenditure specified in Part 1 and Part 2 of the Bill. I now give way to the Chief Minister and in doing so commend the Bill to the House.

HON CHIEF MINISTER:

I am grateful to the Hon Financial and Development Secretary for moving the Bill and for giving way to me. Mr Speaker, it is with great satisfaction that I rise in this House to present this year's budget and to report to this House on the excellent health of the economy, both in respect of the private sector and of public finances. The recurrent revenue and expenditure budget for last year was in surplus by £2.9 million and a further surplus is estimated for the current year. Government reserves remain at record levels of £51 million. Public debt remains low in real economic terms, only 17 per cent of GDP. The economy grew by 8 per cent in 2003 and is estimated to have grown by a similar amount in 2004. Employment stands at record levels, 15,994 jobs and continues to rise, 575 extra jobs were created in 2004. Government revenue and expenditure stand at record levels. Personal taxation rates are at their lowest ever. These are the economic realities and they contrast sharply with attempts by others, by recourse to a variety of misconceived devices that I will review later, to make people think otherwise or to make people think that the Government is short of money, or to make people think that public finances are in a precarious condition, none of which is the case.

The Consolidated Fund budget of annual revenue and expenditure was again in surplus last year. This Government with our now well established model for prudent stewardship of public finances, have produced Consolidated Fund budget surpluses in seven out of the eight annual budgets for which we have been responsible. Our only posted deficit was last year and even that would have been a surplus had we not made a £5 million capital grant to Community Care, which of course is not an item of recurring expenditure. This record of Consolidated Fund budget surpluses is a noteworthy achievement in itself. Opposition Members managed it only four out of their eight Consolidated Fund budgets when they were in office. Hon Members will see that the Government have modified the presentation of this year's Estimates with effect from the forecast outturn for last year, so that the House can see at a

glance those major items of expenditure which are one-off, exceptional, and therefore not recurrent. These are now contained in a separate Head 13. The House can therefore more easily see the recurrent budgetary position and compare one year with another unaffected by major items of exceptional expenditure which distort the recurrent expenditure picture and comparison of one year with another. The summary on page 5 shows these Head 13 items charged below the line directly to the Consolidated Fund reserve. This enables the House to see at a glance the Consolidated Fund budgetary position, both on an overall expenditure basis and on a recurrent expenditure basis. On a recurrent expenditure basis the Consolidated Fund budget surplus last year was £2.9 million. However, as is shown on the summary forecast financial outturn for 2004/2005 on page 5 and Head 13 of the Estimates Book and indeed as we have just discussed in relation to the debate on the previous Bill, Government also spent from the Consolidated Fund an additional £2.2 million on three exceptional non-recurring items and they were, as we have heard, £1,030,000 in the Health Service's Clinical Governance Review, £750,000 contribution to the Tercentenary Fund which is the fund that financed all tercentenary celebration events and the full account of which I have just laid in the House today. Finally, £440,000 to pay for the settlement of miscalculated overtime payments in the Royal Gibraltar Police going back to 1993. In fact this particular item will recur once this year because the settlement is being paid over three years. Therefore on an overall expenditure basis, that is taking these exceptional items into account, the Consolidated Fund surplus last year would be the lower sum of £700,000. So I suppose that one could say that the Consolidated Fund recurrent revenue over recurrent expenditure was £2.9 million in surplus but that the surplus of revenue over all Consolidated Fund expenditure was £700,000.

Even though the year ended in surplus both revenue and expenditure were higher during the year than had been estimated at the start of the year. We have just debated the Supplementary Appropriation Bill for last year relating to that higher expenditure, so the House knows that the items of

recurrent higher expenditure amounting to £8.1 million comprised mainly of £2.9 million extra to clear the whole of the Gibraltar Electricity Authority operating deficit, £580,000 additional expenditure by the Elderly Care Agency, £720,000 extra for the Social Services Agency, £3.15 million extra for the Health Authority and £600,000 extra for Government legal costs. This higher than estimated expenditure was covered by higher than estimated revenue, resulting in the £700,000 overall Consolidated Fund surplus. In effect the Government used the higher than estimated revenue to clear £6.1 million worth of 2003/2004 deficits carried forward by statutory bodies as well as some other departmental overspend.

The expenditure last year, that is to say the year ending 31st March 2005, was itself £13 million higher than in the previous year, that is to say the year ending March 2004, mainly accounted for by the following items of expenditure. So this is a list that I am about to give the hon Members of the items on which last year's actual expenditure was higher than the previous years' higher expenditure. £2 million of Consolidated Fund charges, £1.5 million on Education, £1 million on the environment, £500,000 on technical services, £1.2 million on the Elderly Care Agency, £2.3 million on social services, £500,000 on port, shipping and airport, £11.6 million on health services, including the £4.4 million to clear the 2003/2004 deficit carried forward, and £500,000 on Treasury expenses. These items, which obviously amount to more than £13 million, those items less savings elsewhere including for example the non-recurring £5 million to Community Care that had been paid in the first of those two years, results in the overall net expenditure increase of £13 million. This figure of £13 million increase in Consolidated Fund expenditure includes the £6.1 million in respect of contributions to clear 2003/2004 deficits carried forward into 2004/2005 by the GHA, the Social Services Agency, the GDC and the Elderly Care Agency. Therefore real growth in expenditure incurred in 2004/2005 was £7 million or 4.25 per cent if one strips out the effect of the fact that some monies paid last year, £6.1 million of monies paid last year, actually related to expenditure incurred in the previous year.

This House will be aware of the Government's long standing position that part of the wealth created by our successful economy will be invested in modernising, expanding and improving our public services. The figures that I have just quoted read together with the expenditure statements for the Gibraltar Health Authority, the Elderly Care Agency and the Social Services Agency, demonstrates that once again last year we have complied with this policy, as we have done every year since 1996. For the current financial year, year on year real Consolidated Fund recurrent expenditure is estimated to rise by £5.4 million or 3.2 per cent. However, despite this fact, total Consolidated Fund expenditure is actually estimated to fall slightly by £1 million from £178 million to £177 million, and this apparent optical illusion of rising departmental expenditure but falling overall expenditure is of course explained by the fact that last year's figure of £178 million contains the £6 million on clearing the previous year's estimates from statutory bodies, that I have already mentioned and which will not recur, and also because of falling expenditure elsewhere in other Heads. Therefore, if I could just analyse for the hon Members of the House the main areas of rising estimated expenditure this current year they are as follows. In other words, on what are the Government spending more money that results in a net increase of the £5.4 million that I have said. £2.4 million is for supplementary funding and the hon Members will know that of course when one is comparing one year with the next, the supplementary funding vote starts the year at a sum of money, £2 million or £3 million, and ends the year at zero if it has been spent. So when I say £2.4 million for supplementary funding the hon Members will know how to interpret it in that context. £700,000 for Consolidated Fund charges, £2.4 million for public sector staff pay rises, £300,000 for an additional employment contribution to the GDC, employment head contribution for the GDC, £1.4 million extra for the Elderly Care Agency to fund the extra staff needed for the expanded Mount Alvernia, £600,000 extra for the Social Assistance Fund to fund more social assistance payments, £900,000 extra for the staff and other resources to operate the new Sports Complexes at Bayside, £400,000 extra for the Gibraltar Health Authority, £300,000 for

the inflation effect on the contract prices of contracted out services and £200,000 for insurance premiums and claims. The total of these increases is offset by £4.2 million estimated reduced expenditure in other Heads to produce the net increase of £5.4 million. So we are for the current financial year, that is 2005/2006, estimating a surplus of £3.76 million before exceptional non-recurring items totalling £560,000 and that represents an estimated surplus overall, including these exceptional items which amount this year to £560,000, I think from memory it is another tranche of the Police overtime settlement and also some expenditure on the Trafalgar bicentenary celebrations. During the course of this year we also hope to be consolidating pension and social security funds to lock in surplus capital into pension funds and thus increase the financial provision for the funding of elderly persons pensions for our present and future pensioners.

Our commitment to invest in the modernisation, expansion and improvement of our public care services and education has been borne out not just in overall public expenditure in those areas but indeed in the extra staff resources that we have employed in them since 1996. We are proud of having done so and will this year continue to do so. From some quarters of the community we are often called upon to curtail public expenditure and to cut staff, but the public sector and the community of Gibraltar is not a business. Government are not a profit organisation, reducing costs to the minimum in order to maximise profit is not the role or purpose of this Government. Government have both a duty and a desire to develop public services for the benefit of the community as a whole and for the financially less well off in particular, and so we have not hesitated to increase public expenditure and public sector jobs and resources in the most important public services, health, education and social services. In 1996 we set out to broaden, modernise and improve our health service so that Gibraltar would have the modern, comprehensive and free public health service that it wants and deserves. Investment in our health care services has risen by well over 100 per cent since 1996 from about £20 million a year to £46.5 million last year. This

huge extra investment in and commitment to our health service since 1996 has enabled us to employ an extra 52 nurses, an extra 32 doctors and other professional medical care staff and an extra 101 other health care support workers. In total an extra 185 health workers delivering extra and better health care to our community, introduced in existing and new health care services or rather in existing and newly introduced health care services. As a result and to that same end we have a new hospital, a new Health Centre and a new professional ambulance service in addition to the extra human resources that I have just described. In this financial year alone, that is to say in the financial year that started on 1st April last, an additional 66 medical staff and other health workers have already been or will shortly be recruited to staff the expanded and improved health services available at the new hospital. These are real improvements paid for by our investment in our health services, made possible by our economic success. In 1996 we set about modernising, expanding and improving our social services, our children's homes, our disabled persons homes and facilities, our old peoples homes, our probation and social worker service, our financial provision for the elderly, so that the most dependent and vulnerable members of our community would also share in our economic success. This is the true mark of a modern and caring society and not one that is preoccupied with cutting the public sector. So also we have effectively eliminated taxes for the elderly and we have introduced the elderly persons minimum income guarantee. Those things have cost a lot of money. Disability benefits, family benefits, unemployment benefits and social security benefits that had been frozen for many years before 1996 have all been substantially increased. Those things have cost a lot of money. Over 500 publicly paid workers who had no occupational pension before 1996 now have one. That alone is costing the Government nearly an extra £1 million a year. We now have well over 110 extra staff looking after a greater number of our elderly at Mount Alvernia. We have around 50 extra social workers and other carers looking after our children in care, our disabled people and those of our fellow citizens who are most disadvantaged and in need of help and support. We have staff where there was none before providing

treatment in Gibraltar to our own drug addicts and providing advice to our citizens at the Citizens Advice Bureau and relief and support to our citizens at the Ombudsman's Office. These are the things in which we have invested the fruits of our economic success as we said we would to ensure that Gibraltar is a modern, caring and civilised society. This is modern Gibraltar after eight years of GSD Government.

Annual public expenditure in these areas, many of which had been starved of adequate funding and investment before 1996, has much more than doubled, an increase by tens of millions of pounds per year. We set out in 1996 to consolidate and improve our education system and so we have increased the number of teachers and permanent classroom aides by over 41 and expenditure in education has increased from £11.5 million a year in 1996 to £21 million last year, an increase of 83 per cent in eight years. We have abolished parental contributions, increased grants and allowances and provided much greater resources to those of our children that are in need of special educational support. There will also be additional staff and resources this year to upgrade our excellent new sporting and leisure facilities at Bayside, which are also important social amenities. So the Leader of the Opposition will understand that I and most other objective people will have taken with more than just a little pinch of salt his May Day statement that it is his responsibility to make sure that in Gibraltar we "do not stand idly by and watch the gains of the past being rolled back to the detriment of future generations of Gibraltarians". No Government has done more in recent history to advance those social gains than this Government. So I cannot agree either with the statement in this year's Chamber of Commerce annual report, where it says and I quote it, "it is a matter of concern that the public sector has grown significantly in the past eight years and there has not been any appreciable improvement in the services it provides". The statement is not of any concern to me and it is not actually true and can only be based on a very narrow view of the extent and role of the public sector in a civilised community. In those areas where there has been growth of resources, staff and expenditure in expanded public

services there has indeed been considerable appreciable improvement. One need only ask the family of the residents at Mount Alvernia or compare the range of health, educational, training and social services now available to this community with those available before the so-called growth in public sector without appreciable improvement.

Of course that is not to say that other public services do not need to improve or improve further. Business organisations have historically been most critical of two public services that are the most relevant to business activity, that is the Post Office and the Customs Department. We have invested very substantially in the Post Office and it has been reformed so that it now provides a service that is amongst the best in Europe. It is not realistic for those who demanded this of Government to now complain that it has come at a financial cost. All reform and service improvements come at a cost everywhere in the world. This financial year and with the support and participation of staff and unions, we intend to carry out a root and branch review of the Customs Department, including its functions, methods, resources, premises, staff and management structures and its roles. We hope to improve the service to the business community and other users and also to improve the Department for the benefit of staff as well as to maximise the effectiveness of its revenue collection. Large and important areas of the public service are also being reorganised and arrangements are being entered into so that important economic and social functions are carried out via focused entities in a way most beneficial to the needs of those particular activities, and so the Government have set up the Social Services Agency, the Elderly Care Agency, the Electricity Authority, the Port Authority and the Sports and Leisure Authority. All of them with the appropriate management and staff structure, outside of a monolithic Civil Service to give them greater flexibility of action and management and to allow people from outside the Government to play a role in the management of those particular public services, and thus there is a considerable amount of training now going on in the public service as well as modernisation of premises, and together all this amounts to a significant degree and amount of public sector

reform going on. Nor is there any point in Government being urged to abandon the principle of parity as set out in the Parity Agreement. The Government are irrevocably committed to the principle of parity and nor is it even true to say that the public sector in Gibraltar is too big. The public sector, widely defined, provides around 3,900 out of the 15,994 jobs in the economy. When I say widely defined I clearly mean wider than just Civil Servants. That represents about 24 per cent of all of the jobs in our economy, the same as in 1996. So the public sector is not growing as a proportion of our economy in terms of its share of its jobs. It is growing in precise proportion to the growth in the economy as a whole, as indeed it should. What is more, Government expenditure as a percentage of gross domestic product, that is Government expenditure as a proportion of the size of the whole economy which is how public expenditure can be sensibly measured, is not growing significantly and is lower in Gibraltar than it is in the United Kingdom and elsewhere in Europe. It is therefore a complete myth that the public sector is too big in Gibraltar.

It is self-evident that even in a growing economy it is not possible to indefinitely sustain increases in public expenditure, whether due to the inevitable effect of rising costs or the expansion or improvement in public services, without ever increasing any revenue-raising measure. I think that no other Government in the world, and certainly no other Government in Gibraltar, has reduced income taxes every year for nine years as we have done. Whilst continuing the nine year old downward trend in taxation rates we have recently taken steps to increase some revenue items to ensure that public finances will remain sound and balanced as between taxation and other revenue streams into the future. It is absurd for Opposition Members to pretend that increasing revenue raising measures is a sign of economic weakness or a sign of shortage of money. Every country in the world, including the richest, does it and much more frequently and much more regularly than we do it. To suggest that it is a sign of financial ill health is as ridiculous as it is economic illiteracy. This year we have increased social insurance contributions by 10 per cent for only the second time

in nine years. The increase amounted to £1.88 per week for employees and £2.38 per week for employers. The Opposition Members when they were in Government used to increase it every year by a compound 10 per cent. Our social insurance contribution increases have not even kept pace with inflation over those nine years. So in effect we have decreased them in real terms and as a proportion of peoples pay. Serious economic debate cannot take place on the basis of whether things are going up in cost. It needs to take account of how things are going up in relation to inflation and rising incomes and in real terms. We have also increased a wide range of Government fees and charges which had not been increased for many years. Most of them are not paid by the average citizen, they are specialist or business fees and charges. It really is quite absurd to expect Government to fund rising costs of public services without ever addressing revenue items. Ordinary people in Gibraltar know that despite the politically opportunistic commentary of the political opposition. Indeed, it is only because our economy has been and continues to be so successful that we have been able to avoid the frequency and regularity of increases which are the norm in every other developed country. Increased Government revenue resulting from economic growth enables Government to defer revenue raising measures but not forever, unless one stops investing in improved public services. It is sheer disingenuousness to profess or pretend the contrary, however politically expedient it may be to do so.

We have also raised electricity and water tariffs by 12 per cent and 17 per cent respectively. They had not risen since the mid 1980s. In the UK for example, these tariffs have risen by more than that over a period of just the last two years or so. What we have raised after 20 years the UK have increased to reflect only a couple years or so of cost increases. Our increases in tariffs do not even come close to maintaining the inflation adjusted prices of the tariffs or the costs of delivering the service. In effect, electricity and water tariffs have fallen hugely in real terms and as a proportion of peoples pay and incomes. That is the inescapable economic reality. Ordinary people do not like

paying more for anything but they understand that prices cannot remain static forever. Let me place the recent tariff increases in some perspective. For example, the electricity tariff increase will raise about an extra £2 million a year for the Government. On the other hand the cost to Government of fuel alone for generating electricity has risen by more than £2 million in just the last two years. Never mind rising salaries and other operating costs, last year alone the Government subsidised the Electricity Authority and therefore tariffs to the tune of £4.4 million. In real economic terms all these increases in revenue raising measures have been relatively modest. It is not a case of failure demonstrated by having to have raised tariffs but of extraordinary success in having been able to hold them unchanged for 21 years, this is a unique achievement unrepeatable anywhere in the whole planet.

I could barely contain my amusement when I read again in his May Day message this year, the Leader of the Opposition say, and I quote him, "the huge increase in electricity and water charges and the hundreds of other increases introduced by the Government in the run up to the budget, will further erode the standard of living of those who continue to reside in Gibraltar". Erode the standard of living. I could barely believe my eyes when I read it. The sheer audacity of the bare faced cheek of it. Could this really be the man who between 1989 and 1995 increased by £9.40 a week the social security contribution payable by each and every worker in Gibraltar however low his pay might have been? Could this be the man who not content with that huge erosion of the standard of living of every worker in Gibraltar, then went on to further erode them by effectively increasing their income tax every year through fiscal drag? Does the Leader of the Opposition not know that even adding up the two social insurance contribution rises that we have introduced and what he called the huge increase in electricity and water charges that we have introduced, we have still added much less to peoples weekly outlay than his social insurance contributions increases, alone? Does he not know that whereas he then went on to increase those same peoples taxes, we have

reduced peoples taxes by nearly 40 per cent? Does he not know that?

No Government of Gibraltar has ever eroded the living standard of working people in Gibraltar more than the GSLP Government did, and no Government in the recent history of Gibraltar has improved the living standard of working people in Gibraltar more than the GSD Government have done and will continue to do. At the time of the tariff increases I heard the Leader of the Opposition say that it was better to pay for rising costs of electricity and water from taxes and not to increase the tariffs for consumption, "because if the taxpayer pays those who have most would pay more towards the subsidy, but if the consumer has to pay higher tariffs, those who have least pay least". I have to say to the hon Member that he is completely wrong with that somewhat extraordinary logic. Firstly, if Government subsidises electricity and water through general taxation, when an ordinary working household contains several tax paying workers, as many do, each of them is funding the subsidy even though there is only one electricity and water bill. So if a home contains two, three or four wage earners, that home is paying two, three or four shares of the subsidy. So that family of ordinary workers is paying more not less. Secondly, businesses and temporary residents and others who live in Gibraltar, whilst paying no tax here consume cheap water and electricity at prices subsidised by tax paying workers and residents. It is better for people to pay a fairer price for what they consume so that those who choose to be careful with their consumption can continue to pay lower and lower taxes and spend their money as they choose, and not be forced to spend it subsidising the consumption of other perhaps wealthier people. So much for the Government's budgetary position. We expect to continue to produce budget surpluses. We expect that the economy will continue to grow and that this growth and other economic factors will continue to deliver the bulk of the increases in revenue that Government inevitably need to sustain public services. Indeed, in the past we have been able to do so and at the same time reduce personal taxation rates very substantially. We hope and expect to be able to continue to do so. Nothing on the horizon

threatens that scenario despite the challenges that we face in the Finance Centre, but increasing revenue raising measures from time to time is a perfectly normal thing to do. To suggest otherwise is to trivialise and distort serious economic debate for the purposes of deceiving general public opinion.

Mr Speaker, I turn now to Government cash reserves which remain at record levels, that is just over £51 million, compared to £42 million in 1996. Subject to the level of expenditure from these reserves on the Government's forthcoming new housing schemes and to transactions which will add to these reserves, the reserves are estimated to end this year at the new record level of about £54 million. Public debt is at £93 million, the level estimated at the start of the last financial year in the June 2004 budget. At £93 million it is only £10 million higher than net debt was in March 1995 when it stood at £83.1 million, when the economy was very much smaller. Despite increasing debt only modestly and increasing cash reserves, we have since 1995 invested more than £163 million in Gibraltar's infrastructure and capital projects. In western economies there are two proper and meaningful measures of public debt. One is debt as a percentage of gross domestic product, that is Government debt relative to the size of the overall economy and the other is debt servicing costs, that is interest payments as a percentage of total Government revenue. Both methods produce a figure for Gibraltar which is very much lower than the European norm and target. Anecdotally, the House may be interested to know that the European Union debt target for all EU countries under the Maastricht Treaty procedures is 60 per cent of GDP and the UK is very proud because its debt is only 41.6 per cent of GDP. The Gibraltar Government's debt is a mere 17.5 per cent of GDP. Indeed, as our economy has grown the size of Government debt has become relatively smaller in real economic terms. Furthermore, applying the UK Treasury guidelines for public debt by UK Overseas Territories, our public debt ceiling could be as high as £200 million. We have not yet reached even the present public debt ceiling of £100 million which was set when the economy was not far from half its present size. The House may also be interested for me to point

out that as a result of the refinancing of the matured £50 million loan stock, which paid interest at 11 5/8 per cent, as a result of replacement of refinancing of that recently in May with Government debentures and bank loans at around 6 per cent, there is an annual reduction of about £3 million in the cost to Government of servicing their debt. Therefore, whether one looks at our record of almost continuous recurrent revenue and expenditure budget surpluses or at the record level of Government reserves, or the record level of investment in public service modernisation, improvement and expansion that we have been able to fund year in year out, whilst at the same time lowering taxes, or at the low level of public debt despite investing an average of nearly £20 million a year in capital projects, the economy insofar as concerns both public finances and their management, and as I will now move on to explain, the wider economy is in good shape.

Does this mean that Government are a bottomless pit of money? Of course it does not. Does it mean that departments can spend as much as they like without having to keep within approved spending limits without budgetary discipline? If they are not allowed to then it must mean that the Government are short of money. Does it mean that the Government must provide each department with all the money it bids for each year at budget time? Of course it does not. Is that a measure of economic health? Of course it is not. Who could possibly think that in any country that is the case, even the richest. Does anyone imagine that even in the United States of America or Japan the Government can spend money with no limit? The very proposition is economically absurd. Yet alas, the Opposition appear to have embarked on a sustained campaign to get the general public to believe that Gibraltar is an exception to all of this, that in Gibraltar unless the Government say 'yes' to all and every expenditure that someone wants to incur, then it must mean that the Government are short of money. Of course it was all very different when they were in Government. Then it was all 'there is no money for this, there is no money for that' coupled with annual tax and social security increases. Yet the reality is that while they say the Government are short of money,

public expenditure is actually growing, public services are being expanded and improved and we are investing in more medical staff, more social care workers and more educators for our community, and we are making unprecedented investment in our social health and education services to make them into truly modern 21st century standard services for Gibraltar. If that is shortage of money, long may it continue.

I said earlier that I would review some of the absurd dialectic devices to which the Opposition has recourse to distort and misrepresent the economic realities and give a picture of doom and gloom when actually the position is the very opposite. There are several such devices. Perhaps the most absurd of them is the trick of measuring the Government's financial position, not by comparing one year's actual performance to another year's actual performance, or even by analysing Government's actual financial performance in any one year but by comparing what the Government estimated at the start of the year would happen with what actually happened during that year, as if that was a measure of anything except perhaps the accuracy of estimating techniques. It has recently been said by the Leader of the Opposition that in 2003/2004 "an estimated surplus of £6.5 million became a deficit of £7.5 million and that this represented a discrepancy in public finances of £15 million". A truly astonishing piece of economic analysis. Another device is to mix up recurrent expenditure with capital expenditure, so every time the Government do not spend money on some recurrent annual departmental expenditure or other the Opposition say 'of course if they had not wasted £3 million on the Theatre Royal they could afford it'. £3 million has not been wasted on the Theatre Royal but in any case that money was spent on capital reserve accounts, which by the way is still at a record level and not a Consolidated Fund annual budget expenditure. If Government had not so far spent £3 million on the Theatre Royal project nothing else would be financially different now. It has not affected or prevented any other expenditure let alone annual departmental expenditure. Of course, the Opposition know that but nevertheless play on the public's lack of familiarity with such matters. Whilst on the

subject of the alleged waste of £3 million on the Theatre Royal, or the hole in the ground as they like to call it, that £3 million represents one eighth. In case nobody is understanding me correctly that is one over eight as a fraction of what it cost to repair their Harbour Views fiasco, and one quarter, that is one over four stated as a fraction, one quarter of the £12.5 million that it cost this Government to clear up their Incinerator/Water Desalination/Electricity Generator fiasco. £12.5 million of hard-earned Gibraltar taxpayers money had to go in settlement of a fiasco that they left us behind in 1996. Well, however, unlike their lost millions which were literally poured into a black hole the Theatre Royal project will become a reality and give Gibraltar the cultural centre that it deserves. We would need to organise many, many bonfires with taxpayers pound notes before coming anywhere close to wasting the millions and millions of pounds of taxpayers money which they wasted in mishandled projects when they were in Government. Another device is to expect this Government to fund increasing annual expenditure without increasing any revenue raising measure, even though of course they effectively raised taxes and social insurance contributions when they were in Government. Put another way, if we do not fund everything it means we are short of money but if we raise revenue so that we can fund more things then we are also short of money, it really is too silly for words. So public finances are in good shape. The Opposition Members can, if they wish, continue to make points which mean little more to the informed but the level of budget surplus have reduced from previous levels, and so they have but they have done so by design as I have explained every year at budget time. It is the natural and inevitable consequence, even in a growing economy, of cutting taxes, investing in more and better public services and going year after year without increasing revenue raising measures, it is the inevitable consequences that budget surpluses will diminish. We have said from the start that we would share the budget surpluses between (1) increasing investment in public services, which we have done as I have just explained; (2) cutting taxes, which we have done as I have just explained; and (3) capital investment projects, which we have done as I have just explained. Of course, we could have done

as used to happen before 1996, we could increase taxes every year instead of decrease them and we could make practically no investment in public services resulting in our health and social services having taken on the appearance of those in third world countries, as many of them were in 1996. Government would then be richer but the citizens would be poorer. Poorer financially, poorer socially and poorer in the public services that our community needs and wants. That is not the GSD way, that is not our vision for Gibraltar.

One of the socio-economic challenges facing Gibraltar is the unacceptable and irresponsible manner in which the Ministry of Defence is seeking to obtain efficiency savings in its operations in Gibraltar. Both the Unions and the Government acknowledge that the Ministry of Defence has a right to seek to make its operations here financially more efficient but we reject the methodology, namely wholesale, unconsulted and unnegotiated privatisation. There are alternatives such as in-house negotiated options. It is no good the Ministry of Defence saying that privatisation is the order of the day in the United Kingdom as well. Gibraltar is not the United Kingdom, our geographic location and our status as an EU frontier town means that the adverse socio-economic consequences of privatisation are much more serious in Gibraltar than they are in the United Kingdom. Privatisation of the MoD on this grand scale also means effectively an end to parity in the Ministry of Defence in Gibraltar. Therefore, out of 1,000 MoD jobs up to 400 could be lost altogether and the remaining 600 would lose parity. This is economically and socially regressive and unacceptable. The Government therefore fully supports the Unions campaign against this privatisation and calls on all of Gibraltar to do so as well. It is of course not possible for the Government to legislate to prevent such privatisation, nor contrary to occasional statements to the contrary by the Opposition have I ever said that it could or would. What I have said is that Government would legislate and take whatever administrative action was possible and lawful to ensure that the socio-economic consequences to Gibraltar from such privatisation were minimised as far as possible. For example, it is unacceptable

that pensionable jobs should be converted into non-pensionable jobs. I have sought and not received from the Ministry of Defence an assurance that any jobs that may be privatised despite efforts to prevent it, will retain equivalent occupational pension terms going forward into the future indefinitely. Accordingly, the Government will bring legislation to this House amending the TUPE provisions in our Employment Ordinance to require that employment posts subjected to a transfer of undertaking retain at least equivalent value pension terms and conditions into the future. There are also various financial and fiscal and other exemptions which are enjoyed by the Ministry of Defence to which a privatised entity should not assume that it will also be entitled. The Government are liaising closely with the Unions and our lawyers on the question of whether the Ministry of Defence is amenable in the Supreme Court of Gibraltar under the Employment Ordinance and more generally. Union lawyers are confident of the existence of the Supreme Court jurisdiction to hear this case and to grant the relief sought if the Court considers it right and appropriate to do so. Both of these issues are of course a matter entirely for the Court to decide. I am sure that this House unanimously will not hesitate to legislate to make the Ministry of Defence fully amenable to the Courts of Gibraltar generally and to the Supreme Court jurisdiction in this particular case in particular, should it be necessary to do so. The Leader of the Opposition has offered to agree to an emergency convening of the House should it be necessary for this or any related purpose, and I hope that that will remain the case and I acknowledge that he is nodding his head for which I am grateful to him.

I will now turn to the wider economy but I will return to public finances in one regard and that is the Improvement and Development Fund, which I have not yet dealt with but which I want to deal with in the context of other development projects of a non-Governmental type in just a few moments. So I turn to the wider economy and to the various private sectors where I am happy to say, as in the case of public finances, Government's economic policies continue to deliver success. By every known measure of economic growth our economy

continues to grow by a handsome margin. In 2003 the economy grew by 7.9 per cent to £507 million. The estimate, not yet publishable and therefore I call it an estimate, the estimate for 2004 is that it has risen again between 5 and 7 per cent to around £530 million. It may interest the House to know anecdotally that if Gibraltar were an independent country our economy would rank in size 156th out of 186 in the world. Furthermore, the prosperity and success of our economy makes Gibraltarians amongst the best off citizens in the world. At \$32,393 at 2004 rates our GDP per capita stands in eleventh position amongst all the countries in the world. Eleventh out of all the countries in the world is our GDP per capita at \$32,393 using 2004 rates for estimates of GDP. The number of jobs in the economy continues to grow. I thought the Leader of the Opposition would be amused by that anecdotal comparison of Gibraltar's economy on a wider planetary basis. The number of jobs in the economy continues to grow. Between October 2003 and October 2004 it grew by 575 jobs or 3.7 per cent. It is no small achievement for an economy of this size to create so many new jobs year in year out. It is perhaps worth noting that since 1996 the number of jobs in the economy has grown from 12,980 to 15,994, an increase of an extra 3,014 jobs or 23 per cent. This represents yet another all time high record measure of the economy. The main sources of the 575 new jobs created in 2004 are the following sectors.

Gaming	284
Building Construction & Real Estate Management	186
Bars & Restaurants	54
Finance Centre	78
Vehicle Trade	21
Public Transport	21
Health Services	23

After deducting 47 jobs lost in the Ministry of Defence and 140 jobs lost in the electrical trade as a result of the completion of the new hospital, the new gain was 575 extra jobs. It may also interest the House to know that the number of Gibraltarians in

employment has risen from 9,448 in April 1996 to at least 9,864 in October 2004, an increase of around 460 Gibraltarians in jobs. Another statistic the trend of which demonstrates clearly the sustained growth in the economy, is tax yields from companies and businesses. This has risen from £10 million or so in 1997 to £27.8 million last year or £22 million if one excludes items of revenue that may not recur this year in company tax. For this reason we are maintaining last year's figure as the estimate of the current year because last year's figure contained a couple of largish one-off items of tax payments by individual tax payers that will not recur this year. I am sure we will discuss more of that when we come to the Committee Stage.

Average earnings in Gibraltar rose to £17,834 per annum. Out of the 13,549 full time workers in Gibraltar 5,100, that is 38 per cent, earned more than £20,000 per year. Of those 3,458 earned more than £25,000 per year. Less than 2,000 earned less than £10,000 per year. This substantial economic growth is achieved notwithstanding a number of external factors which impact adversely on our economy. These include current recession or downturn in many western economies, the record high price of oil, the adverse effect of Savings Directives and tax uncertainties on our Finance Centre and the ever increasing impact on businesses of EU environmental and health and safety regulations.

I now turn to a brief review of the individual sectors of our private sector economy. The Finance Centre continues to grow and performs remarkably well despite the well known challenges that it presently faces. Last year we welcomed the first new bank for a number of years. Employment in banks has risen from 644 in March last year to 683 in March this year, an increase of 39 jobs in the banking sector over the year. Bank assets and bank deposits have also grown substantially. This is most encouraging and satisfactory given that the banking sector is the area most affected by the impact of the Savings Directive. The number of insurance companies continues to grow making this the biggest growth area in our Finance Centre. Last year they

grew in number from 39 to 45, their number has doubled since 2002 and very nearly quadrupled since 1999. Employment in the insurance industry grew by 42 persons in the year to March 2005. It has increased to 232, an increase of 40 per cent since June 2001 when it stood at 165. Needless to say all these figures are at record levels given that this is a growing sector of the industry. The Government will continue to work closely with the insurance industry to market Gibraltar's attractions to that industry and thus to continue to grow our participation in this sector. Levels of activity are also being either maintained or increased in the various company trustee management sector activities and also in the investment management sectors. Government will shortly introduce new legislation to boost our competitiveness in the collective investment management sector, which we hope will provide another important growth area for our Finance Centre, which continues thus to reshape and reposition itself for a continuing prosperous future. The Gaming Industry continues to grow impressively and has now become a very significant part of our economy. As at April 2005 there are now 15 operators employing 1,107 people compared to 11 operators employing 837 people in June last year. This represents a 32 per cent increase in jobs in less than one year. Two of Gibraltar's gaming companies are shortly to float on the London Stock Exchange. Party Gaming will next week become the first ever Gibraltar domiciled company to float on the London Stock Exchange. It will go straight into the FTSE 100 Index. That is the index of the largest 100 companies quoted on the London Stock Exchange. Cassava's float follows later in the year and these two flotations are a significant achievement for an economy of our size. In 2004 we also saw the issue of the first two licences for fixed-odd betting exchanges and also the first licence for spread betting issued in Gibraltar. Gibraltar has undoubtedly become one of the world's leading and most reputable locations for on-line gambling. This has been achieved by a commitment on the Government's part to high standards in the industry and by limiting entrance to hand-picked proven and reputable operators. In order to ensure that in the light of the growth of this activity, Government are able to continue to protect both the reputation of Gibraltar and of the

companies established here, a revision of our antiquated gaming legislation has been undertaken and Government are presently consulting the industry on a new Gambling Bill. I hope to bring the Bill to the House at the first meeting after the summer recess. The Bill provides, amongst other things, for a new and more sophisticated licensing and regulatory regime, structure and resources. This growth in the gaming industry has produced not just 1,107 new jobs but also a substantial increase in Government revenue. Not only do those 1,107 people pay income tax to the Government but the industry also paid £4.3 million to Government last year in gaming tax. This is up from £1.8 million in 2000/2001, an increase of 138 per cent. This yield is expected to rise this year as Government increases not the rate of gaming tax but the cap to which it is subject. The Government will remain highly selective of any further new entrants. The jurisdiction's reputation must continue to be protected, existing operators must be protected from unsustainable pressure in the jobs market and Gibraltar's telecommunications capacity cannot be put under strain in a way which prejudices existing established operations. We were also able to persuade the United Kingdom Government to amend their new Gambling Bill as it passed through Parliament so that Gibraltar gaming companies would be treated as eligible to advertise into the United Kingdom.

The Port continues to increase its level of activity and thus its importance to our economy. Ship calls grew 17 per cent to 6,757 in 2004. The number of ships calls has now nearly doubled, a 98 per cent increase since 1996. Bunkering visits increased also by 7 per cent over the last year. The establishment of a new Port Authority has now been agreed with staff and this will enable a more commercial focus in our Port without undermining the rights and status of employees as public sector workers. There is also a new port legislation to regulate commercial activities within it.

That tourism remains a success story under the stewardship of Joe Holliday is a self-evident reality that most people can see with their own eyes just as they walk the streets. There are

days when we local residents are almost driven from our streets by the sheer number of tourists occupying them. This has not prevented one local pundit with obvious political ambitions of his own, from saying last week in an interview with a local weekly newspaper that Mr Holliday is the worst Tourism Minister ever. Alas hell hath no fury like a prospective candidate scorned.

Visitor arrivals by cruise ships are at an all time record high of 162,780 per annum as at 2004. Arrivals by air in 2004 stood at 134,497. This is more than double, 103 per cent of the number in 1996, 103 per cent increase in the number in 1996. Visitors by land remain just short of the record achieved in 2003. Hotel occupancy is at the highest level since records began in 1978, at 68 per cent, although there are times of the year which it is impossible to obtain hotel accommodation in Gibraltar. If all this represents the Hon Mr Holliday's failure as Tourism Minister, then long may he continue to fail or else there will be no room in Gibraltar for those of us who live here. I have no doubt that Gibraltar currently enjoys its best ever Tourism Minister.

Turning now to capital projects. In the Improvement and Development Fund last year we had estimated that we would spend £18.4 million whereas we actually spent £15.3 million, a strike rate of 83 per cent, which is I think a small improvement over past years' percentages. Of these £15.3 million, £2.6 million were spent on refurbishment of public housing, £1.4 million on the extension and refurbishment of Mount Alvernia, £2.4 million on the new Sports Complex at Bayside, nearly £1 million on educational equipment and buildings, £1 million on investment in the environment, roads and utilities, £2 million on equipment for the essential services and on public buildings and £3.5 million on other infrastructure projects with the balance on a variety of other projects. These were funded mainly from the sale of Government properties to the tune of £7.2 million and the proceeds of public debt £5 million. This current year we are estimating to spend on capital projects from the Improvement and Development Fund £24.6 million. The main expenditure items will be as follows, £2.4 million again on the on-going programme to refurbish the public housing stock; £800,000 on

further equipment and works for the Gibraltar Health Authority. £500,000 on the project to relocate the Prison to the Lathbury Barracks area which will commence this year; £500,000 on further equipment and works for the Elderly Care Agency and the Social Services Agency; £1 million on refurbishing school buildings; £1 million to build a new swimming pool for the elderly and the disabled; £1.6 million on the new Bayside Sports Complex; £3.8 million on environmental projects including rock safety works, works to sewers and drains and the Upper Town urban renewal scheme; £3 million on road maintenance, the construction of new roads and the construction of new parking facilities; £2 million on Upper Rock tourist sites and other beautification projects, and £2.8 million on MoD relocation costs. We are estimating that up to £21 million of this expenditure will be funded from the proceeds of sale of Government properties. Construction of one of the Government's new housing schemes, now known as Waterport Terraces, gets seriously under way very soon and will be funded mainly from that part of Government reserves held in companies as shown on page 6 of the Estimates Book. Details of the scheme, prices and other literature will be issued during July.

Despite the large sums of money that we have spent on upgrading the public housing stock, on building Bishop Canilla House and refurbishing Edinburgh House for rental stock, the Government are rightly criticised for not moving quickly enough to put more affordable housing on the market. I accept this criticism. Government are now moving quickly on several fronts to rectify this policy failure. However, this justifiable criticism should not be abused by some and misunderstood by others to justify criticism of the huge amount of private investment that there is in real estate projects in Gibraltar. Apart from reflecting huge international investor confidence in and support for Gibraltar, it represents massive, present and future economic benefit for Gibraltar, a very significant increase in Government revenues, in jobs and in investment in our commercial, urban and utility infrastructure. The economic benefit to Gibraltar of projects like the East Side, the Mid Town Project and the Mid Harbours Project, is truly huge and will guarantee this

community's economic and social prosperity and therefore its political prosperity for a long time to come. International investment is vital to our economy, to peoples' employment, to peoples' businesses, to Government revenue and thus to public servants and to users of public services. In short, to each and every person in Gibraltar now and in the future. It is therefore unforgivable to trivialise this investment by pitting it in peoples' minds against the environmental, social or housing needs of current local residents. The Government will ensure at all times that these investments deliver the economic benefit to Gibraltar whilst also ensuring that local needs and interests are protected.

I move now to this year's budget measures which continue this Government's policy of tax reductions. Once again it gives me considerable satisfaction to announce measures that will reduce taxation for a very substantial number of taxpayers in Gibraltar. Since 1996 we have abolished death duties, reduced income tax rates by at least 40 per cent and we have abolished income tax for most senior citizens. This year we are introducing the following measures. In relation to taxation firstly, tax on savings income is abolished altogether. In order to encourage people to save for their old age and to encourage personal investment, income tax is abolished on all savings income. For these purposes savings income means dividends arising from investments quoted on any recognised stock exchange, interest paid directly or indirectly (1) by banks, building societies or other financial services institutions licensed in Gibraltar or in any other recognised jurisdiction to undertake deposit-taking or investment business, or arising from investments quoted on a recognised stock exchange or paid by the Gibraltar Government Savings Bank; (2) All senior citizens' allowances are increased so that they amount to £10,000. Tax allowances for all senior citizens will be topped up to £10,000 irrespective of the level of income of the senior citizen. Under the present Senior Citizens Tax Scheme introduced by this Government a couple of years ago, men aged 65 or over and women aged 60 or over are exempt from tax on income up to £8,000 with tapering off provisions up to £13,495. Accordingly, presently, senior citizens with income between £8,000 and £13,495 get a reducing benefit and senior

citizens with incomes above £13,495 get no benefit at all. With effect from 1st July all men aged 65 or over and all women aged 60 or over will get additional allowances over and above their existing personal and wife allowances so that the total of their age, personal and wife allowance is £10,000. In effect therefore, all senior citizens of state pensionable age, regardless of their level of income, will have personal allowances of £10,000 and pay no tax on the first £10,000 of their income. All personal allowances are increased by 3 per cent. The allowance for child studying abroad will now be the same irrespective of the number of children studying abroad. Accordingly, all such children will attract the allowance at £1,015 per annum. *[Interruption]* I only have one and most frustratingly by the time my second one goes my first one will have come back. So I regret that I will not be a beneficiary of this measure. The present disability allowance of £1,470 is increased to £2,500. Taxation is abolished on dividends paid by one Gibraltar company to another Gibraltar company. Taxation is abolished on dividends and interest paid by a company to a non-resident recipient. The requirement to withhold tax from dividends in accordance with section 39 of the Income Tax Ordinance is abolished. The unilateral tax relief provisions in our Income Tax Ordinance will be extended to all countries in the world. Incurred but not reported claims, known as IBNRs in the insurance industry, will be allowable deductions for insurance companies.

Moving to other budget measures not of a fiscal nature. Rates payable by clubs and societies, premises occupied by clubs, associations and societies that do not operate on a commercial for profit basis will be exempted from rates. The existing 20 per cent discount for early payment of commercial rates by commercial property occupiers is reduced to 10 per cent. Gaming Tax. The cap on gaming tax is increased to £425,000 with the minimum payable remaining at 20 per cent of the cap figure. The actual rate of gaming tax remains unchanged.

A series of measures for the benefit of our elderly citizens. The following measures are introduced for the benefit of the elderly

in addition to the £10,000 tax allowance that I have just described. Medical tests for the renewal of driving licences for persons over 70 will be carried out free of charge by the Gibraltar Health Authority. Where the registered tenant or owner of a property, or the spouse thereof, is 65 years of age or over, TV licences will be free. Where a man aged 65 or over, or a woman aged 60 or over works, they will no longer have to pay the employee's share of the Social Insurance contribution. At present such persons pay £10.81 a week in respect of the Group Practice Medical Scheme contribution and this will no longer be payable. The elderly persons minimum income guarantee is increased by 3 per cent from £95.40 a week to £98.26 a week for a single person, and from £127.20 a week to £131.00 per week for a married couple. The statutory minimum wage will increase from £4.00 to £4.50 an hour with effect from 1st July 2005.

Stamp Duty. Stamp duty will be abolished on all transactions except real estate and share capital transactions. Stamp duty on share capital, whether on initial creation or subsequent increase, will be £10.00. In order to further assist buyers of affordable homes, real estate property that costs less than £160,000 will be exempt from stamp duty. It currently pays 1.26 per cent. For those properties worth between £160,000 and £200,000 it will remain at 1.26 per cent, stamp duty will be increased for properties worth more than £200,000 to an amount not yet decided but which will not exceed 2.5 per cent.

Annuities. At present only 25 per cent of the capital value of a money purchase scheme may be withdrawn on retirement. The balance of 75 per cent has to be used to purchase an annuity unless it purchases a pension of less than £1,000 a year. This is now increased to £2,000 a year. At present interest rates this means that if the capital value of a maturing money purchase scheme amounts to less than around £53,000, it can all be withdrawn. I commend the Bill to the House.

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

HON J J BOSSANO:

Mr Speaker, if I was to limit myself to talking about the general principles and merits of the Bill I would have to ignore 95 per cent of what we have just heard from the Chief Minister who introduced the Bill, including his avid reading of my May Day messages, in respect of which I can find nothing either on the expenditure or on the revenue side of the Estimates that we are debating today. I am glad that he finds them so interesting and we bear that in mind since they were intended mainly for the people who believe in May Day and not for the people who wanted to move May Day to another day of the month like he did. The Chief Minister normally waits until I have spoken before he launches his descriptions of me as illiterate and all the rest, and on this occasion obviously he has decided to pre-empt what I am going to say by calling me all those things even before I have opened my mouth to give my assessment of the economy or of the finances of the Government.

As regards the latest thing that he has announced, which is the string of measures which have an effect on these Estimates but which we are not required to vote on, what I would expect him to do when he replies is to tell us whether the things that involve less revenue have already been reflected in the estimates of revenue that we have before us, or whether in fact we can expect the revenue to be less than estimated when these things come into effect. The Chief Minister seems to have two themes always repeating his estimates speeches every year. One is that as long as he can say we did something wrong that necessarily deprives us of the right to question anything he does. Secondly, it does not matter how incoherent and contradictory the things of which he accuses us, which is on the one hand that nobody wasted as much public money as I did and nobody had as many piggy banks full of money as I did, that in my time there were more deficits than there are today but that when we look at the results of the Government's performance we should not take into account that on one year he gave £5 million from import duty to Community Care, because that is a one-off payment that distorts current revenue and expenditure.

The fact that I gave £15 million every year of course is ignored and is not taken into account as to whether there was a surplus or a deficit. He knows full well and if he does not then he is even more ignorant than I imagine, that when he reconstituted the estimates the way he did, he took money out of the Savings Bank and out of the Coinage Fund and out of the Sinking Fund and all the rest and made it all go through the Estimates and consequently, he can only compare how much we were having in surpluses by reference to the fact that the last year we were in there was a surplus of £15 million or £16 million, and at that time incidentally, when he was considering how the budget of the Health Authority ought to be dealt with when he came in, the first thing that he said in the first budget, when it was pointed out to him by my hon Colleague that there was going to be £20 million spent in 1996/1997 as opposed to the £21 million that had been provided earlier in the year before the election by us, he accused me of giving money to the Health Authority which the managers did not want and would not know how to spend, and that he was not going to be on the roof of St Bernard's throwing away pound notes. If he wants the page of the Hansard I will give it to him, because he seems to remember everything I said and forget everything he says. So one will not be surprised to learn that our assessment does not coincide with his. In my contribution, as I intended, I will deal with the state of the Government finances and the performance of the economy exercising our judgement of what the estimates before the House and the information we get provided with occasionally indicates. Before I do that I think I have to bring to the notice of the House the number of inaccuracies in the statement made a year ago by the Chief Minister which I was not in a position to answer on the spot, just like I am not today about many of the things that he has quoted because of course writing it down as one hears it is not the same as seeing the eventual record of the event where one can check things out.

The Chief Minister picks at random figures to support his arguments which are totally meaningless and does that year after year, and whenever we in the Opposition question the accuracy of the things that he says he simply resorts to accusing

us of speaking rubbish, delivering a diatribe, being absurd and a whole list of adjectives. This time he has actually started doing it even before we speak. No doubt I am inviting him by what I propose to say to react in his usual manner again this year. We have become immune to it. Given the absurdity of some of the comments that he has used over the years, one has to wonder whether in fact he knows that what he is saying is not true but does not care, or that he really does not know what he is doing or what he is talking about. He opened the budget debate a year ago by telling the House that in 2001/2002 GDP grew from £433.6 million to £470.2 million, an annual economic growth rate of 8.4 per cent. We have not challenged the accuracy of this figure nor to my knowledge has anyone else. However, he felt obliged to try and demonstrate its accuracy by reference to other factors and he went on to say 'this growth in the economy is reflected in many economic indicators 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 obvious to even the person least knowledgeable about economic statistics that the growth in the economy in the year that ended in March 2002 had absolutely nothing to do with the rise of employment that took place and was reflected in the Employment Survey in October 2003, 18 months later. The 600 increase that he quoted made a relevant indicator of what has happened in 2003/2004 of which we had an early indication today in terms of GDP growth rate but which is not yet finalised. The correct figure to have quoted, if the Government considered this to be a relevant indicator for that particular year, would have been the employment figures for October 2001. The more recent figure of growth in the economy that is officially published is the GDP for 2002/2003 where we are told it shows an increase of 7.87 per cent from £470.2 million to £507.2 million. In this case the employment level that would have been relevant as an indicator is the October 2002 survey result which showed an increase of 335 jobs compared to October 2001.

The Chief Minister then went on to say last year that in the year ended March 2004 there was a small operating deficit of £1.334 million. This was, as I showed last year, at best a misleading

statement because the estimate showed below the line as he calls it now, £5.988 million of deficit carried forward in Government Agencies. That is, money already spent which was being carried forward into the 2004/2005 financial year. The true deficit was therefore £7,285,000, hardly a small operating deficit. The final figures currently before the House this year show that the deficit in the Agencies have in fact risen to £6.101 million and that the final result of the Consolidated Fund expenditure is now shown as having increased that deficit by a further £143,000. That brings last year's overall deficit to £7.578 million. To this we have to add the adjustments to recurrent revenue produced by a creative accounting device of the Government charging their wholly-owned companies a 5 per cent commission for the sale of co-ownership homes which had taken place from 2002 onwards and which was credited as a Treasury reimbursement in the 2004 financial year. This amounted to some £750,000 and it was revealed as a result of questions by me in the course of the year when the Chief Minister told the House that he had no knowledge of this and was discovering it at the same time as me. It is an amazing thing that he should be so much on top of public expenditure and he has got £750,000 coming in and he does not even know where from or how or why and does not bother to find out until I ask him. This was not included at the time of the original estimates of revenue presented to the House in the 2003 budget, so in order to compare the final result for 2003/2004 with the original projected surplus of £6.7 million, we need to make an adjustment for this figure so that we are comparing like with like, because this was in the second and did not exist in the first in arriving at the first result. In order to understand the importance of the introduction of this device, I do not know whether it is still operational, we need to appreciate that in fact what it did was to convert part of the proceeds of the sale of the properties built by the naughty, nasty GSLP into annually recurrent revenue and that comparing like with like the final picture, removing that from the equation that now emerges, is that instead of 2003/2004 financial year ending with a surplus of £6.7 million of revenue and expenditure the final results have been an excess of expenditure over revenue, leaving a deficit of

£8.328 million. The hon Member has made clear today that this criticism is a nonsense because all that we are talking about is getting ones estimates wrong, so what is wrong with that? If saying to the Chief Minister, "look, you came to the House before the Elections and told people 'I am managing the affairs so well that we are going to finish up with £6.7 million in the kitty', and he came after the Elections and told people 'I am still managing the affairs very well now that you have put me back', but in fact we are not putting £6.7 million into the kitty, we are going to have to take £8.2 million from the kitty and I was out by nearly £15 million in my estimates. If an Opposition, in a democratic parliamentary system is being politically dishonest in pointing that out and criticising it, then I have to say that I do not know by what standards he expects democracy to operate. We are perfectly entitled and it is not an invention, it is not a distortion, it is not economic illiteracy – it is a real fact. Otherwise, I would like the Chief Minister to tell us what is the point of him having stood now and told us that this year we are going to finish up with £3.7 million surplus. I should say to him 'so what, that is only an estimate'. This year we are going to spend £177 million and I will say 'so what? That is only an estimate, it does not matter if one spends another £100 million, and it does not matter if one collects £100 million less, because according to him everything here is an estimate. Well how can he say in the same breath that it is important for the House to exercise control over approved expenditure. The expenditure that we are approving are all estimates. All the things that we approve when this book comes out, it will say Approved Estimates of Expenditure, that is what we are voting. But of course if the Estimates turn out to be wrong, then we are not entitled to tell him 'look, everybody has a margin of error but your margin of error beats all records, and since you now are telling us we have got the eleventh economy in the world in per capita income'. Comparisons with the rest of the world were not permissible before 1996, I am glad they are now allowed. Then, one record they have got is that never in the history of Gibraltar has anybody produced a change between an estimated surplus and an actual deficit of the magnitude that they have. They have the world record for that since 1704. I know that the Chief

Minister takes credit for things that have not gone up for the last 21 years, although I am not sure where he was 21 years ago. So I feel that I am entitled and that I am not doing anything that is not correct parliamentary in bringing this to the attention of the Government, which they know already because they do not need me to tell them, all they are trying to do is play it down, and to the attention of the public because I am entitled to do that because that is what I have been elected to do on the Opposition side of the House.

Obviously the published figures will not show that because one of the factors used to make the figures look better was to shift from the property companies part of the proceeds of the sale to the tune of £750,000 and make that deficit look smaller, and the other one was to keep the deficits in the Appendices and only bring them into this year's (the year that has just finished) recurrent expenditure. When the figures get published in the Abstract of Statistics it is this line which the Chief Minister would like us to believe he is putting there for our benefit so that we understand these things better is the one that will show, the one that looks better. Notwithstanding the obvious attempts that have been made to minimise the size of the deficit, I do not think there is any other way of explaining it and making it look better, the Government deny that they have a cash problem. They have done it again today. Well, if not being able to meet one's bills at the end of the year is not having a cash problem, I do not know what it is called. They stated last year and continue to state that the disappearance of the surplus, the Chief Minister has done it again before I spoke, is the result of a deliberate policy of reducing the surpluses which they claim they have conducted on a regular basis year by year, year in and year out. Once again we come up with this question mark. Is it that the Chief Minister gets his figures wrong as I have just demonstrated in another question, or is it that he is trying to mislead people, or is it that he does not know what he is saying? The facts do not support the statement that it is a deliberate policy. What has been the surplus of revenue and expenditure in previous years? Has there been a steady decline reflecting a deliberate policy of bringing the deficit down gradually, year in

year out? No, there has not. The figures are as follows. In 1997/1998 he budgeted for a surplus of £7 million and finished with an actual £15 million. In 1998/1999 he budgeted £6.25 million and he finished with £17.5 million. In 1999/2000 he budgeted for £13.25 million and finished with £17.4 million. In 2000/2001 he budgeted for £16.8 million and he finished with £11 million, £5 million less. In 2001/2002 he budgeted for £8.6 million and finished with £15 million. In 2002/2003 he budgeted for £8.8 million and finished with £6.5 million. I have not gone after that because that is in the realm in which we have been talking, that is 2003/2004 and 2004/2005 are the years that have hit the deficits. Certainly, nobody from these figures would have predicted that there was a straight line curve taking us there.

The Chief Minister told the House in the last budget that I had warned in previous years that the inevitable result of expenditure growing faster than revenue would be the erosion and the eventual elimination of the budget surplus, and that in doing that I had been observing and stating the obvious. Well, it was obvious to me but apparently not to him, since the Estimates he presented in the House gave no indication in 2003 when I was saying this, that he anticipated the elimination of the surplus by the end of 2003/2004 let alone in a few years. He has maintained that it has been actually happening year after year over the last few years and the figures that I have just quoted show that this is not true. He did not even plan it, he did not estimate for it. He then says that it has been a matter of Government policy and not by chance or unintended or overlooked. Those are the words used last year but he sent the same message today. If that indeed were the case we would not agree with the policy of deliberately creating a deficit and then having to increase electricity, water and a host of other charges to restore the surplus which they claimed they did not want and they had deliberately eliminated in the first place. We do not agree with that policy, but I have to say that the more that one analyses the statements of the Chief Minister, the more one comes to the conclusion that either he gets it all wrong or just simply does not have a clue of what he is talking about or does not care. In 1997 he said “unless expenditure moves down or

revenue moves up, it is unlikely that the next year we will be able to generate a surplus of £7 million.” That is, the financial year 1998/1999, no hint here of a deliberate policy of wanting to reduce a surplus. In fact, the 1998/1999 surplus was £17.5 million, the highest ever. The 1997/1998 surplus was £15 million and not the £7 million he had expected. There was another £17 million surplus in 1999/2000 and so in the 2000 budget, given that this had been happening and he had been getting his figures wrong, it became the Government policy to have high surpluses. They suddenly discovered there were high surpluses so that became the deliberate policy of the years of the Government. He announced a higher forecast surplus and an estimate of the same level of £16.8 million for 2000/2001, and defended this high surplus policy. He was defending the very opposite policy to the one he now claims had been the policy of the Government throughout. He said “the money is needed for infrastructure development, of which a major item is the waste water treatment plant on which Gibraltar will soon be in arrears of the required debt”. The House was told “Government’s Budget surplus policy is calculated to keep the powder dry and to operate the sort of surpluses, having just mentioned that he was estimating and expecting to get £16.8 million, that he judges will be necessary if this community is to afford investment in public services infrastructure that it faces in the next four years. That is what he told me in the year 2000 in this House. Well, the next four years are now over, the powder is soaking wet and no infrastructure development on the waste water plant has taken place. So much for the continuity of Government policy. The policy follows the events and the surplus of the past have every sign of having been by chance, unintended and overlooked – all the things he denied last year, and to have taken him totally by surprise to boot. When he finds that there has been a large surplus that becomes a prudent Government policy. When he has a deficit it is not a shortage of money but the normal things that Governments do and that can be corrected by budgetary discipline. The current supposed policy of restoring the surplus only surfaced after I had questioned the sustainability of the trend in Government spending which would lead to a situation of

going into the red, that is, not having enough money to pay for recurrent expenditure. Having argued last year that it was a deliberate policy to get rid of surpluses, he then went on to demonstrate that the public sector had not grown over the years. Again, something that he has repeated in this year's speech and used different arguments from the one that he produced last year.

So I will deal with the ones that he produced last year, which are the ones of which I have been able to read the record. He was saying that the public sector had not grown and that this was not the cost of the deficits. He then went on to demonstrate this, namely that the public sector was not too big in relation to the size of the economy, as he has told us again today, not for our benefit since we have never used such an argument. But he said, and he has repeated, that there was a myth in some quarters in Gibraltar, without specifying which quarter, that the public sector was too big and this, he said, is not true, it is not big. Nevertheless, he chose to defend his thesis with figures that were all wrong and whoever and wherever in Gibraltar those quarters may be, they are certainly not going to be convinced by the figures he gave them last year and I hope they will have more success with the ones they have used this year. First, he chose to give the figure of Government spending as a share of GDP and he said the Government share of GDP had risen to 31 per cent from 21 per cent between 1997/1998 and 2001/2002, and that this compared favourably with the UK where it was 42 per cent. In answer to Question No. 1968 of 2004 he corrected these figures showing the way that this ratio is calculated in the UK, what he likes to call the international criteria that everybody uses and now we use as well, and applying the same method to Gibraltar. This showed the UK figure was in fact 38 per cent, having been previously as low as 35.6 per cent a couple of years ago. In Gibraltar's case the new figure using UK methodology to compare like with like was that it had gone up from 27.8 per cent to 32.4 per cent. Then he chose to give another example which made matters even worse. He decided to start quoting about the growth in public sector jobs. The figures he gave a year ago are not quite in line with

the figures he has given today. He said that defining public sector in the widest possible terms and therefore not including just Government employees, but also employees of Government companies, agencies and authorities, the public payroll had increased by a net 267 bodies or 10 per cent between 1996 and 2003. In contrast, he alleged overall employment in the economy had risen in the same period by 2,125 or 24 per cent. It is a complete mystery how the Chief Minister arrived at these figures but I can tell him that the second of these is definitely utter and complete rubbish. If employment had risen in the whole of the economy by 225 between 1996 and 2003, as he claimed, and this was 24 per cent it would have meant that in 1996 there were just 8,854 jobs and that this would have grown by 24 per cent, namely, his 2,125 bodies to reach 10,979 jobs. He has given figures today which shows that this is not correct. What the Employment Survey results show is that the 1996 April Survey was 12,980 employees, as he has quoted himself, growing by 18.8 per cent to 15,419 in October 2003, the figure that was available in last year's budget that he was not using. As regards the public sector jobs in the wider sense, which he claims went up by 10 per cent or 267 from 1996 to 2003, that would imply that in 1996 there were 2,670 in the public sector and that in 2003 there were 2,937. In the booklet published by the Government after the budget, and the one he has added to the Approved Estimates, which incidentally does not include Government companies, the number of public sector jobs in the 1999/2000 budget was given as 2,937. I do not know if this is where he got the figure from but then I have to tell him that if that is where the 2,937 comes from the figure he published in the 2003 budget was that there were 3,406 jobs. This represents an increase of 469 or 16 per cent in the four years between 1999 and 2003. If we were to calculate it from 1996, as he was doing, assuming his base of 2,670 to be correct, then the increase would have been 736 jobs which amounts to 28 per cent and not 10 per cent. Whilst I think all this was unnecessary, nevertheless, he was arguing it is not true that the public sector has grown faster than the economy and the percentages that he gave were totally wrong, and the percentages that are produced by analysing the figures that he

has given in fact shows the contrary picture to the one that he was trying to demonstrate. It seems to me that he will have to do better than that if he is going to convince those quarters he says in Gibraltar that do not believe him when he says it is not true that the public sector has been getting too big. Certainly, it does not inspire much confidence to the Opposition Members that he really knows what he is doing, if he does not even know how many people are employed in the public sector. For the avoidance of doubt, let me make quite clear that we do not subscribe to the view that there is an arbitrary figure that determines whether the public sector is too big or too small or the right size, either in relation to its share of GDP or as regards the number of people it employs. It has to be as big as it needs to be to deliver the services the Government of the day and this House provide for in voting the Estimates of Expenditure for the financial year. Our only concern about expenditure levels and its growth have been that it should be sustainable, and that is the only issue that I have flagged up on a number of previous occasions in the past.

The Government also argued last year that it was merely a question of budgetary discipline, the theme they have repeated since. In fact, he went further than he had done in the budget when he told the Federation of Small Businesses in February this year the following. It has become fashionable for the Opposition, I am glad we are fashionable at least, to say that the Government is short of money. If the Government decide not to throw away a motorbike just because it suffers a breakdown and needs a repair, and instead choose to repair it rather than buy a new one, this is presented as evidence of shortage of money. If Government exercise normal and prudent budget discipline by requiring departments to stick to the spending authorised by the House of Assembly, and as an aside he told them, which by the way is a legal requirement, he knows about laws, this too is presented as shortage of money. Well, what better evidence could I provide in this House than this. Evidence that what the Chief Minister engages in is what he likes to call self-serving arguments. He is always accusing the Foreign Office of self-serving arguments, the Spaniards of self-serving arguments, he

does it all the time. Anyone who knows me can tell him that I am probably the last person in Gibraltar who will tell him to throw away his old motorbike and buy himself a new one instead of repairing it. Not that motorbikes are his style, he is no Harley Davidson man, more like a Rolls Royce, or what is it His Excellency uses a Daimler, that is it I think. He is probably a Daimler man. But what is more worrying about his perception of reality is that here is someone responsible for the public finances, who in 2003 thought he would have £6.7 million left over at the end of his pre-election spending spree, only to discover that instead he was short of money to the tune of £8.2 million. A not insignificant discrepancy of £14.9 million. If this were Gibraltar plc, as he sometimes likes to call it, the shareholders would now be baying for his blood. Now add this, that he thinks he can fill this gap and the hole in the finances by repairing his old motorbike instead of buying himself a new one, I mean to say it is all a bit much. Here again we have a clear case of an attempted deception of his captive audience at a GFSB dinner, or else an appalling level of ignorance, because what he said that he told us in the House a year ago in respect of the last year ended March 2004, the Government are forecasting a small budget deficit of £1.3 million. To what did he attribute this small, artificial deficit when he spoke? He said it was due to an increase in Consolidated Fund charges of £1.75 million. He added that this was due mainly to two items, Civil Service pensions, which rose £1.5 million, and Legal Aid which reached £1 million. Neither of these, as everyone in the House knows but possibly not in the GFSB, are subject to the approval of the House of Assembly. In fact, the legal requirement is the very opposite of what he told them it was. The House is not legally permitted to attempt to control items which are a direct charge on the Consolidated Fund, so how can he say the deficit was due to departments not sticking to the spending authorised by the House of Assembly, which by the way is a legal requirement, when he had told us here that the overspending had nothing to do with that at all. Added to this, there was of course the overspend of £6 million in the Government agencies but he did not consider that to be part of the year's deficit even though we do. Again, it is not expenditure subject to the

approval of the House. It is not expenditure which to use his words cannot be exceeded without authority. We are not voting the expenditure in the appendices this year nor did we do that last year. In fact, if we had voted that expenditure and it had not been covered by an Appropriation Bill, he would not have been able to do what he did last year which was to take the deficits generated by the excess expenditure and transfer them to a subsequent year, because that would have been illegal. So everything he told the GFSB about controlling departments subject to authorisation for the expenditure, none of that applied to either the excess spending out of the Consolidated Fund or the excess spending out of the agencies whose accounts are shown in the Annex. None of it applied. So one wonders whether on that occasion he did not know what he was talking about, when he was talking to them about legal requirements, or he just did not care, he just wanted to present a picture that here he was trying to be very prudent, very correct and very legal in making people stay within what we are going to vote in this budget, and we were urging him to throw caution to the winds and do the opposite. Well it was a complete nonsense and it was the kind of self-serving argument that he is so fond of.

Now we come to his prediction of the forecast outturn for the year. At the end of January in that meeting, nearly eight weeks before the end of the financial year, he told the GFSB that there would probably be another small deficit this year. We have just been presented with figures showing a surplus. He did not know there was going to be a surplus as late in the year as the end of February, two months to go. When he told them that there was going to be another small deficit and the previous year which he considered to be small was £1.4 million, therefore one assumes that it meant a deficit of a couple of million which to him appears to be beer money. I ask myself when did the Treasury prepare the Estimates now before the House if by the end of February they were still working on the premise that there was going to be a deficit? How can they show a surplus now when it was playing down the importance of the imminent deficit? So let us take a closer look at the book we have before us and do a bit of forensic analysis. He told us last year that he was estimating a

surplus of about £2 million and that he believed that the planned revenue raising measures not yet reflected in the Estimates would restore the surplus to higher levels than that. Is that what has happened? Not at all. Not if we compare like with like. Page 5 shows a result which is £2,951,000 instead of the £2.107 million, making the surplus look £800,000 better than the original figure and that is no doubt what he will parade in the programme on television tonight and in all the media coverage that he can get to show that not only has he finished the year with a surplus but with an even bigger surplus than estimated, that is why he is able to give all these goodies to people who have got dividends and shares and all that. He has already taken us through the changes that have been made. The Government have removed from the recurrent expenditure and charged directly to reserves £2.22 million. This is so that we can understand the book better. It is not so that he can say the surplus is bigger. I am tempted to say one can say that to the marines. In fact, what has happened? Well the Clinical Governance Review, which is the expensive, important GHA expert has like St Bernard's Hospital migrated, only in their case they have migrated twice. They first migrated at the beginning of the financial year from Appendix G to Head 7A and left the GHA budget but still remained part of the annually recurrent Government expenditure. Now before the end of the year they are migrating again out of Head 7A to become non-recurrent expenditure charged to reserves. Well, it was recurrent the year before and it is going to be recurrent next year, so if it is in order to make us understand that better we appreciate his concern, but since he gave us the choice of seeing the results of this year by either taking that out of the figure or putting it in, we choose to put it in. The same has happened to the 2004 Tercentenary costs which were recurrent at the start of the year and in 2003/2004 but now if these amounts had been charged above the line, as he himself acknowledged, the surplus then would be £731,000. There is an uncovered deficit in the Gibraltar Development Corporation of £1,063,000 and therefore technically on 31st March there was not a surplus. However, we accept that since this was cleared by a payment from the EU in April, it seems a reasonable thing to ignore the sum because it was just a question of the timing of

the arrival of the cheque. If it had arrived a day before the end of March that amount would not have been there, so we think that is a reasonable thing to do in that particular instance.

The other agencies show deficits which have been eliminated by the Supplementary Appropriation Bill and are included in the forecast outturn, the Bill of which we have had the second reading earlier on. The Electricity Authority required an extra £2.9 million, the Elderly Care Agency an extra £563,000, the Social Services Agency an extra £645,000 and the Gibraltar Health Authority an extra £3.531 million. In the budget approved by the House a year ago, the authorised expenditure was £170.03 million. From this has to be deducted the items mentioned which have been transferred as a charge on the reserves. That is to say, the original amounts that were being voted by the House to be charged as part of annual expenditure are no longer there if we are comparing like with like. Therefore, by taking out the £100,000 originally approved by the House for Tercentenary costs and the £400,000 originally approved for Clinical Governance fees, it means that the rest of the budget removing those two items that we approved in the House, amounted to £169,593,000. The forecast result is £8.484 million higher. That is to say, the expenditure over the approved budget is £8.484 million bringing the total to the figure we have in the book before us of £178.077 million shown on page 5. We have not heard a word from the Chief Minister in his introduction of these figures, as to whether he thinks this discrepancy between the authorised expenditure and the actual result is as a result of a failure of the budgetary discipline that he has been preaching to the House and the community for the last 12 months. He made a big song and dance about this budgetary discipline to the extent that Heads of Department were being required to present him with a monthly report on how much money they had spent and those too frightened to go to his office sent it by fax if I remember correctly. So we do not know what he thinks of this over expenditure of £8.4 million in terms of his judgement of it. But when we analyse the over expenditure one thing that immediately hits him is that no less than £7.639 million is in the agencies, which is expenditure that the House

does not approve. What we approve is the money to cover the deficits after the event, or the money which they can then use to meet the expenditure that had been authorised by the Government, and of course of which we have a breakdown. We know what it is intended to be but it is not like the departmental budgets, to which has been referred, where departments may not move money from one head to another. Apart from the £7.639 million in the agencies, which is not departmental expenditure, there is £796,000 in additional Consolidated Fund charges, which is not subject to the authority of the House as I have already explained. That makes the excess expenditure of these two items a total of £8.435 million. The excess over approved expenditure on the part of Government departments this year, comparing what is the situation at the end of the financial year with the expenditure that the House voted at the beginning of that year is a mere £49,000 in a budget of £160 million. This is where the budgetary discipline which is the legal requirement that he told the GFSB is all about is supposed to apply. According to the Chief Minister this is the problem that the Government face, departments not sticking to the budgets we approve and controlling this element of the deficit is what he is trying to do. However, it is interesting to note that the overall excess on the whole of the expenditure, the departmental expenditure approved by the House and the expenditure in the agencies and the expenditure in the Consolidated Fund which does not require approval, the whole of that actually is nearly £8.5 million over the original figure in the estimate, because when we look at the Consolidated Fund we are not talking about approving the amount of Consolidated Fund charges, we are talking about whether the estimate is accurate or not according to his analysis. If all that we do when we criticise him for getting his figures wrong is that we are just talking about an estimate, well that is just an estimate. But it so happens that the difference between what the Government have spent, whether in one aspect or in another aspect what the Government have spent in the financial year that ended in March this year is £8.5 million more than was originally brought to the House as the projected, expected expenditure and approved by the Government if not authorised by the House. Now this happens

to be the same figure practically as in 2004 when the Chief Minister said it was not acceptable. This is why I wondered at his omission this year to give us the benefit of knowing what his judgement is about going £8.5 million over the top because it happens to be the same as it was in 2004 and that is what he got so worked up about last year, except of course that last year it was £8.5 million over the top and in the red. In fact, it so happens to be, strangely enough, it is almost as if it is inevitable, that it is the same as it was in 2003.

In 2003 we had the same situation, the end result was £8.5 million more than the estimates at the beginning of the year put in front of the House for approval. In 2003 he told the House that the result was good budgetary control. Spending £8.5 million more than estimated was good budgetary control in 2003 when there was still a surplus. In 2004 when there is a deficit, it is something that has to be stopped, something we should welcome, it is budgetary discipline, it is not because there is a deficit and he is short of cash, nothing to do with that. The fact that it is an identical figure and a diametrically opposite reaction has nothing to do with the red ink, but this year he does not tell us whether it is good or bad but he tells us he has got a surplus. What would have happened if this year there had not been a surplus? Would he have reacted to this level of over expenditure in the same way? Would he have brought the deficits into the Consolidated Fund and cleared them out as has been done with the Supplementary Appropriation Bill, or would he have left them in the agencies so that he could claim he was not in the red? Well, we shall never know because we know that he got £27 million in company tax which was not estimated or budgeted for. But we see the lack of consistency and this lack of consistency as to whether the results are good or bad, when they are virtually identical, are not even mentioned on the third occasion which is on this occasion, makes us come to the conclusion that he simply uses the results to prop up whatever version of reality happens to be the one he is trying to project, given his long standing commitment to perception. How is it then that the Government have managed to find the money to meet all these extra costs which we have cleared in the

Supplementary Appropriation Bill? Well if we look at what has happened we need to see the results in the revenue estimates. If we look at page 9 what we see is that first of all the estimated yield from Income Tax came in at £700,000 less than estimated originally, which is somewhat surprising frankly in view of the increased earnings and the numbers employed shown by the October 2004 Survey Report, to which a reference has been made by the Chief Minister. Company tax on the other hand is up £10.8 million. Now much as the Chief Minister would like to do it, he cannot go round boasting that this is the long sighted policy of the Government to increase by 50 per cent on an annual basis the yield of company tax. We were told earlier at Question Time that a big part of this additional money was a one-off payment in settlement of a disputed liability which apparently arrived in the nick of time before the close of the financial year, to stop page 5 showing a deficit and being full of red ink, because of course if that exceptional item of revenue, because it is quite obvious that if they are exceptional items of revenue then it is a good idea to call them recurrent, as if we were going to have an exception every year. But if they are exceptional items of expenditure in the sense that they have only occurred for three consecutive years then we treat them as one-off each year. This is all representation so that we all understand better the picture. It has nothing to do with making the result look better or that we think that he has got money or that we do not know what we are talking about because all Opposition Members are illiterates. The people outside understand all that. So this non recurrent element has made it possible to cover the deficits in the agencies and without it, without a doubt, we would have finished again this year with a deficit on the recurrent account and the Chief Minister would have had to write a different budget speech.

The overall revenue is shown up as being higher by £9 million, but of course there is £10.8 million in just that one item. Other items showing increases are the exempt companies and the gaming companies which each had provided an extra £400,000. On the other hand, I think it is worth noting that under Head 2 Subhead 1 Import Duties, the amount estimated by the

Government has not been achieved. The Government expected to obtain £4 million increase as a result of the increases introduced in import duty last year and the result is £1.6 million less than they expected. We know, because the Chief Minister made it public last year, how much of the import duty is due to the tax on tobacco. He told us that his vision thing, the hole in the ground where the Theatre Royal used to be, will one day rise like the phoenix from the ashes and will cost a mere £8.5 million which, he told the House, is less than half the yield from the duty on tobacco. So now even those of us who are economic illiterates can work out what the duty on tobacco is. This is less than half so it must be from double up. Now given that the commodities on which he raised duty last year account for the bulk of the import duty, it suggests that this failure to meet the target indicates that the scope for raising more money from this source is limited, as it appears that price increases may be accompanied by lower sales volume. This is, I think, important in the context of the sustainability of the present levels of recurrent revenue streams given that recurrent spending will rise inexorably every year as they have done in the past. The relevance of this of course is that when we look at the projected revenue for the current year, where the estimate is £1 million less than the amount put in a year ago, £31 million instead of £32 million, even though the increases in import duty which are supposed to bring this about will be operating this year for the first time for the full 12 months and last year they came in, I believe, in July and only operated for nine months of the year. The latest Employment Survey, of which I had an advance copy a couple of days ago for which I am grateful to the Chief Minister, shows that the main growth area in employment is the gaming companies and probably, by association, the real estate sector. This confirms what the recurrent estimates show in terms of higher Government income which I have already mentioned. The survey also shows a continuation in the decline of retail sector jobs held by Gibraltarians, which when I pointed out this trend two years ago in the budget in relation to shop workers, the Chief Minister's reply was to say 'hooray, hooray'. Well I suppose this year he will say hooray three times because there are 45 Gibraltarian ladies who have lost their jobs as shop

workers. His explanation was that this was because they were leaving their shop assistant jobs to take up betting shop jobs. The survey shows 111 extra female workers this year in the services sector, composed mainly of the gaming industry and betting shops, of which only nine are Gibraltarians. So much for that explanation. The size of this sector, this gaming sector and betting shops, is now bigger in employment terms than the MoD. A few years ago there was a scare when it looked as if the sector might go into reverse and start shrinking, and welcome as this growth is, it is clearly not wise to become over dependent on it as we were once on the MoD presence.

I think whilst on the subject of the MoD, taking up the intervention of the Chief Minister about the proposed legislation, certainly a lot of people in the MoD think that the legislation when announced was legislation designed to deter the contractor from coming in, not to improve the contractor's offer of employment terms to the workers that do not want to move to the contractor. But we certainly read it like that because one of the analyses that was being made was, if the whole argument is that the contractor is going to produce a saving from the MoD and that saving can only be achieved by virtue of the fact that the contractor is coming in expected to be able to do things that he will not be permitted to do, then by not being permitted to do them he will have to increase the price and therefore that might mean that the MoD would have greater difficulty in justifying as an efficiency measure, hiving off to an outside employer work and workers even though it would finish up paying more for the activity than it is currently doing in the MoD budget. I can confirm that should the Government after this meeting of the House recess and would want to call at any time a meeting during the summer to deal with this issue, we would deal with it as an extraordinary meeting and we would not use it to put questions or raise any other business and certainly I have to say to him that he had better put his skates and bring the legislation quickly, otherwise by the time it is in place we might find the contracts have already been given and it will be too late to do retrospectively all the things that he may have up his sleeve. Presumably we will have to put in place before the contract is

signed. The other point I want to raise in relation to the MoD cuts, which are due to hit us in the next financial year and not in this one, I think it is right that this year we do not reflect anything in the budget or any concern because there is no negative effect. Secondly, since we are committed to preventing it there is no reason why we should worry about the effect next year because the effect will only come if we fail.

The Chief Minister has provided me with the economic impact assessment produced by Professor Fletcher using the input/output model. I have it on a confidential basis which I cannot even share with my Colleagues, at the moment I am the only one that has read it, but I believe he should consider making it public sooner rather than later. I know that he said at one stage that he planned to make it public.....

HON CHIEF MINISTER:

Will the hon Member give way and I will tell him what is the conditioning factor there. I have sent it to the Secretary of State who has not yet responded to me on it, and I have provided it to the Union. I am grateful to him for giving way in the middle of his speech. I have provided it to the Unions who have affixed it to affidavits I understand, it is before the courts and the Government did not think it was appropriate to make it public whilst it is before the court in evidence. When the present proceedings are done then the Government can make it public so that what is before the courts is not a public document. There is no Government reason why it could not be made public immediately, there is no Government interest in it. Indeed, if the court indicates through the lawyers that there is no difficulty with this document being made public, the court would not mind, then it can be made public straight away.

HON J J BOSSANO:

I am grateful for that explanation. Presumably there is no major problem in the rest of the Opposition Members seeing it, the confidentiality can be extended to them.

HON CHIEF MINISTER:

Yes, provided he can guarantee it. The only reason why it was limited to him is that it is easier to guarantee the confidentiality with one person than with seven, and I think that would probably apply on the Government side of the House as well. It is just a question of multiplicity of possible errors of leeway. If he can guarantee the discretion then I have no difficulty with the other Members.

HON J J BOSSANO:

Mr Speaker, I am glad to hear the explanation that he has given because in fact I believe that it is important to put this in the public domain because I think it will demonstrate to people that this is not purely an MoD thing that affects just the 300 workers there, that it is a matter that has got implications for all of us and therefore it will help and assist in rallying support for the Unions and the MoD workers involved. Can I also take the opportunity to remind the Chief Minister, as I did in last year's budget, that I am still waiting for the information missing from the original study which he promised me and which I have requested in writing, as he asked me to do. Especially as he says and he has told me in the past that that information which I do not have is what is necessary to work out the employment consequences of changes in the variables that have an input into the economy, and that is precisely what the input/output economic assessment study that he has given me does. So I am only able to look at it but in the knowledge to understand how those figures have been reached I need that bit of the original study which I have

been patiently waiting for now for a couple of years. I hope he can get round to doing it.

Coming to the projected revenue and expenditure for the current year, on the revenue side we have an estimate that shows that the Government expect to collect the same as last year. This, it seems, is the result of the one-off company tax payment being replaced with a variety of increases in other Heads of Revenue including obviously those affected by the increases introduced on 1st April. We know that some of the increases introduced on 1st April have the effect of reducing expenditure as opposed to having the effect of increasing revenue. On the company side the estimate is put at £20 million compared to £17 million two years ago. The estimates provide for a £1.5 million increase as the average year on year change as a norm given that we are talking about a £3 million change over three years. As regards personal taxation, the estimate at £80 million looks low given that it shows a £3.7 million increase compared to last year's £5.4 million. I would have thought that given the figures in the Employment Survey and the fact that the Chief Minister says he expects that trend to continue in the current financial year of growing numbers and growing levels of earnings, and also that although I am aware that not all the £80 million is PAYE but a very big chunk of it is, three quarters or more is PAYE, so if there is an explanation I would welcome it. Why is it lower than normal? If the Chief Minister looks at not just the last year but in previous years, last year the estimate put in was £77 million compared to £71 million. If he looks in preceding estimates he will find that there has been very little difference between the figures. Sometimes the figure turns out to be quite low compared to the eventual result, but what has actually been put in at the beginning of the year has been a figure which has not varied very much from one year to the other. When we are talking about a difference of whether it is £5 million or £3 million, that £2 million is quite a big difference in a figure as small as that. There may not be any particular reason for it but it is something that is wrong.

On the expenditure side there are a number of issues that I would like cleared up. The indication that I had at Question Time was that the Government on 1st May repaid a Savings Bank debenture worth £29 million by issuing Government Debentures at 6 per cent. The Chief Minister has given some explanation of that but has not really answered the points that I am interested in having clarified. I asked in supplementaries whether in order to do that there had been a reduction in the revolving bank credit, the £43 million that the Government have drawn, and this was confirmed. Since in the estimates we are showing that there is £43 million owed to the bank at the beginning of the year and £43 million owed to the bank at the end of the year, then presumably the reduction in the bank credit which was used effectively to keep within the ceiling of £100 million while the debentures were issued, was then taken up at a later stage. So from the figures that we have before us my analysis is that since on page 6 we have £50 million being repaid and £50 million being issued in the current financial year, and £29 million of the issue has gone to people who did not hold part of the previous £50 million loan stock but who have their money in the Gibraltar Savings Bank, then there is a balance of £21 million which must have been issued to the loan stock holders and their debt being refinanced by the issue of new paper. I know that the stock issued to Savings Bank depositors was carrying 6 per cent and I would like to know whether the £21 million that has been issued to the loan stock holders that matured on 15th May, if I remember correctly, whether that also was 6 per cent or a different yield, whether it has a specific maturity date and whether in fact the £20 million has been issued to Community Care, which was the holder of a big chunk of the stock. Therefore, the other holders if that is the case, if the whole of the £21 million has gone to Community Care then it would mean that the other £29 million received payment in cash. If that is the case I would be grateful to have confirmation that this analysis is accurate and if not what the situation is. The Chief Minister has told us that this will produce a reduction in the cost of servicing the national debt in the future. I would have expected it to produce a reduction in the servicing costs of the national debt in the present and therefore I would like an

explanation of how it is that the interest on the loan stock, which was repaid on 15th May, plus other costs which I am not sure what they are actually come to £2.973 million which is just £2,000 higher than the equivalent of six months interest of that loan stock, if there is an explanation for it, it can wait but I would like to have it.

Another point I wish to raise is the pay increase awarded to the most senior posts in the Civil Service, some of which are also a direct charge on the Consolidated Fund. These senior posts are included in Appendix O and they show an increase of almost £10,000 compared to last year. I would like to know if the increase is in respect of one or more a year. It is in Appendix O where we have a list of the grades, there are a number of senior grades where last year the salary was shown as £70,000 and this year it is shown as £80,000. What I am asking is, is the increase from £70,000 to £80,000 the pay review of one year or does it span several years? I think the officer that is two chairs down from the Chief Minister may be one of them. The Accountant General, the Principal Auditor, that is not voted by the House, the charge is on the Consolidated Fund. The specified officers. I think those are the ones that have gone up because I notice that in fact also on there, there is a Chief Executive Officer which was £55,000 last year and continues to be £55,000 this year. I do not know whether this is something that has not yet been settled or whether he is getting less or it is a guise that they do not get more. I would also like to know, given the solid commitment to parity which we have heard today from the Chief Minister, how the sum has been arrived at based on the parity principle of comparison with the UK Civil Service grades. I thought we heard him say that he was willing to die at the barricades to defend the parity principle. *[Interruption]* Well, if it is not based on parity then I would be grateful to know how it has been done. Also in the Consolidated Fund, last year the Government provided a 7.8 per cent increase in Civil Service pension costs, and in fact the sum actually paid out reflected in the forecast outturn, has come in at 6.2 per cent, less than the estimate. This is the Consolidated Fund Civil Service Pension which is Subhead 3(1) of the Consolidated Fund charges. The

provision this year however, is an increase of 3.3 per cent. This seems low given the increases that have taken place in the past and which were highlighted by him in fact in last year's budget, when he mentioned that one of the things that was sort of going up every year was this business of the legal aid and the other one was the Civil Service pensions which he said had shot up £1.5 million in last year's budget. I am surprised that the Government realistically is only pencilling in a 3.3 per cent increase this year. Obviously this figure is affected by two things. The fact that they are index linked and the fact obviously that new pensioners replacing those who then reach the ripe old age of 90 and are no longer with us, tend to have higher pensions because they are people that have finished up with post parity salaries. There are still some fairly elderly Civil Servants who missed the boat because they retired a long time ago, but I think that is a fact that is affecting the pensions bill which tends to make it grow faster than inflation even though the multiplier is the index of retail prices. It seems to me that the 3.3 per cent just reflects the index of retail prices expectation of an increase, whereas there is that other factor that has been operating in the past. I do not know whether it is that that is no longer something that is happening.

In the Improvement and Development Fund the Government said a year ago that they were proposing a lower estimated expenditure because the experience was that money could not be spent and usually only 70 per cent of it got used. I think this year we have been told that the amount that was used was higher but of course it was higher from a reduced provision. So it was higher as a percentage but it was still lower in cash than in other years. Although in 2002/2003, £20 million was spent, in 2003/2004 the approved expenditure was £24.6 million but is actually shown this year as only having reached £16.6 million, in terms of actual spend. This was the reason given for providing last year for a lower approved expenditure of £18.5 million. The forecast outturn shows that what has actually taken place is that it has only reached £15.289 million. If this is the level that realistically can be spent, which was the argument used last year, what has changed things this year to justify a higher

provision of £24 million? Over 50 per cent higher than the actual outturn for the year that has just gone by. How can it possibly be spent if we go by past statements of the Chief Minister, who has argued that one of the problems in trying to get a greater volume done has been the technical capacity to do it and the fact that if one puts too much work into the private sector one tends to see that reflected in price levels and in perhaps workers with less skills being taken on, because the most skilled workers are the ones that have got permanent work all the time. Those are arguments that he has used before, so I would like to know what it is that is new this year that makes the Government more confident that they can spend £24 million in capital works. I have to tell him that this is one area where we also have complaints from contractors on a clamp down on spending, because whether he believes it or not, when we reflect that there are people going round saying there is a shortage of money it is because that is what reaches us, and there were people who were saying last year when the £18 million did not get spent and the £15 million was spent that his office was telling people not to start on anything that could still be salvaged to bring the amount spent before the end of the year. Obviously I am not in a position to know whether it is true or not but that is what he said. If there was a deliberate policy of holding back capital investment last year, then I can only suppose this was in order not to proceed with last year's proposed transfer of £5 million from the Consolidated Fund Reserve and wait instead for the proceeds of property sales to come in. It is a perfectly legitimate reason if that is what was done. That is the only reason that I can think of. If the reason for the under spend was that the work could not be undertaken then this year's increase makes no sense. Clearly, the expenditure this year is almost entirely dependent on achieving £21 million sales of Government properties and presumably the Government are confident that that is an achievable target.

As regards the expenditure levels of the agencies, which do not require the approval of the House but of course then need to receive funds to clear deficits, our assessment is as follows. The Gibraltar Development Corporation has a budget this year

of £3.384 million for the ETB, which is just £50,000 more than the results from the previous year, which itself was £167,000 more than the preceding year's estimates. However, it is below the £3.653 million expenditure of the financial year 2003/2004. The main areas in the provision of funds, which are less than two years ago, are in training courses and in the Construction Training Centre, and these are matters which are clearly determined by Government policy and not demand-led. It is the Government that decide which courses and how many courses are laid on. The other divisions in fact within the GDC, show an overall increase of £52,000 over the outturn which was itself £205,000 up on last year's estimates, and this seems to be in norm with the results of the Development Corporation in preceding years. In the case of the Elderly Care Agency, where the Government have pointed out that additional funds are being voted by the House to provide for increased expenditure over last year's estimate and he mentioned that this had to do with employment levels, I have to point out that although over £1 million is included in the estimates in the appendix under Personal Emoluments and Wages, the numbers shown in the footnote only show an increase of one body in a non-industrial post. So I would like explained who this £1 million body is or if there are many of them. We would like to have an explanation therefore, for the increase in salaries and some kind of breakdown as to what grades have been taken on which were not there in the preceding year.

In the Social Services Agency there is a provision this year which produces an increase over the forecast outturn. Last year the Government argued that it was not acceptable as a way of funding expenditure to take the results of one year and then ratchet it up. Well, I see that this year we are taking the accounts of one year and ratchetting it up so obviously it is not a bad or difficult thing to do, and I am sure the people who work in the Social Services Agency and the users will appreciate it. We will be supporting the ratchetting up. The Health Authority budget on the other hand has a £1.932 million provided over the actual spend of last year. However, there is an additional new cost this year in the Health Authority budget of £2 million for

maintenance. Therefore if we remove that new element of the £2 million we can see that the total extra provision is not an extra provision at all, so that in fact we are providing virtually an identical budget to what they have actually spent, and I would put it to the Chief Minister that it is highly unlikely to materialise and that therefore this is not a realistic estimate of what the Health Authority will be spending in the next 12 months, or in the 12 months of which already three have gone by, and that on this basis, if no more money is approved by the House today we are likely to be needing a Supplementary Appropriation Bill some time later. The Electricity Authority has finished with expenditure of £2.168 million higher than expected than a deficit of £4.4 million. The estimate for this year provides for a cut in spending of £500,000, that is in the spending of the Authority, and in addition an expectation of higher collection of £2 million extra from consumers which the mover told us was the result of the increase in electricity charges, which we do not agree with and we do not support and we do not think that because it happened 20 years ago it is justified or because in the UK they have done it we have to do it. We accept that it is the prerogative of the Government to increase things where they think it should be increased and to lower them where they think it should be lowered.

One of the things that we note in the Electricity Authority account is that the funding provided, the expected revenue from sales and the reduced operating costs because of the £500,000 cut still leaves an uncovered deficit of £368,000 to be taken forward into 2006/2007, after receiving £1.5 million from the Consolidated Fund. We believe that in all probability this deficit will be exceeded and we do not think it is a good practice to start the year by estimating there is going to be a deficit which is not being covered by funding and which is expected to be carried into the subsequent year 2006/2007. We know that this is shown as a minus in the Public Reserves page 6, where it shows the money that is in the companies and the money that is plus or minus in the statutory bodies, but as far as we are concerned effectively it means that the projected surplus at the end of the current financial year, which the Government are

giving as £3.7 million, is not £3.7 million it is £3.7 million less that projected deficit in the Electricity Authority. What is clear to us is that the creation of a multiplicity of agencies has produced higher operating costs and as we have seen, it is not the departmental budget subject to the operation of authorisation by the House that have exceeded the amounts approved because the margins are miniscule in their case. In the overall budget provision of £177.44 million when compared with the cost of the Government last year which was £178.077 million seems to provide no increase but of course we know that that is because, as the Chief Minister has acknowledged this year but did not last year, the £178 million included the £6 million brought forward and therefore it was not real new money at all and the real expenditure was £172 million. So in comparing what has really been spent, which is £172 million, the additional money we calculated was £5 million and that has been confirmed by the Chief Minister who I think put it at £5.4 million. The £178 million was of course £8 million higher than the original increase, almost entirely due to the spending of the agencies. We have a new agency this year which is the Sports and Leisure Authority which no doubt will be putting in their two pennies worth of deficits uncovered in future. The Government's approach therefore seems to be, rather than admit that there is a problem of cash in meeting recurrent expenditure, they say simply that all that is required is to contain the spending. Well, look, it remains to be seen whether they can contain the spending to £177 million that the House is being asked to vote for but we very much doubt that that will be the case and that we will have to be revisiting the scenario once again.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Friday 24th June 2005, at 10.30 am.

Question put.

Agreed to.

The adjournment of the House was taken at 6.04 pm on Thursday 23rd June 2005.

FRIDAY 24TH JUNE 2005

The House resumed at 10.36 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

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 - Attorney General

IN ATTENDANCE:

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

Debate continued on the Appropriation (2005/2006) Ordinance 2005.

HON MRS Y DEL AGUA:

Mr Speaker, the Ministry for Social and Civic Affairs has seen a very considerable increase in its budget over the last two years. Whilst the budget in 2003/2004 stood at £14.5 million, very much consistent with the previous year, this year we have a budget of £19.5 million, an increase of £5 million in just two years. This fact, Mr Speaker, surely contrasts sharply and belies the politically motivated rumours being circulated that this Government are cutting back on expenditure for the most vulnerable members of our society. Although a small part of this increase is reflected in salaries and inflation costs, the bulk of it, I am proud to say, is a direct consequence of the enormous expansion in the delivery of social care.

This year, the contribution to the Elderly Care Agency in recurrent expenditure is £5.1 million pounds, compared to £3.5 million last year. This increase is attributable to the expansion of the home which now caters for 65 more residents. Mount Alvernia has indeed seen a complete transformation. This view

is shared by the residents, their relatives and friends, and even the media, who had a chance to view the facility very recently. The capital cost involved in the major remodification and expansion of the home is £3.3 million. Apart from improving the general fabric of the building in both quality and appearance, additional floor space has been opened which had previously been unused, thereby almost doubling its bed capacity. The works have entailed: the renewal of mechanical and electrical services; the renewal of existing lifts; the provision of an additional lift; the replacement of all windows; the reconfiguration of the majority of existing bedrooms from four bedded rooms to twin and single rooms; the creation of extra bathrooms and refitting of existing ones specially designed for people with mobility problems; the creation of more recreational areas, and the redecoration and refurbishment of the interior of the building. The 1st, 2nd, 3rd and 4th floor, together with the 3rd and 4th floor annexes, are now all residential areas.

The new facility has brought important benefits to both existing and new residents, and provides an improved working environment for staff. It has also created a significant number of job opportunities. The major recruitment exercise has involved the opening of an additional 67 nursing posts plus a number of ancillary staff. The injection of very substantial human and financial resources, coupled with the dedication and commitment of the staff, has had the effect of providing our elderly citizens with "a home away from home", where they can live the rest of their lives in the warm and caring environment that they deserve. This project forms part of the Government's extensive programme to enhance and modernise elderly care services in Gibraltar. Government are already providing a domiciliary care service, to help elderly people in their own homes, and are funding the four day centres which are regularly used by many senior citizens. They are also committed to installing lifts in Government estates, which has already proved a welcome relief to many elderly citizens who have hitherto been housebound. Another important element of the programme is the building of 200 homes for the elderly, similar

to Bishop Canilla, the starting construction date of which is imminent.

In September 2000, this Government introduced a scheme which guaranteed every person over 60 who lived alone, with their spouse or another elderly person, and who did not work, an income of £85 a week for a single person and £110 for a married couple. In 2001, we changed the eligibility rules to include those elderly people who live with either a person in receipt of a Disability Allowance, a person who is severely ill or incapacitated and in receipt of social assistance, a person who is long-term unemployed, or a person in full time education or studying abroad. In July 2003 the amount was increased to £90 for a single person and £120 for a married couple. In July 2004, it was again increased to £95.40 for a single person and £127.20 for a married couple. This year, it is again being increased to £98.26 and £131 respectively. In this context it is important to remember, that until we came into office, those senior citizens who were unfortunate enough not to be entitled to any form of pension had to survive on a measly weekly allowance of £20.40 or social assistance payments of £38.30.

There are a number of senior citizens who for different reasons have other family members living with them in their own homes who do not fall into the categories I have mentioned. Government recognise that these elderly people should not be excluded from the scheme for reasons beyond their control. I am pleased to announce that this year we will once again be amending the eligibility rules, in accordance with our manifesto commitment, to include those elderly people who are heads of their households or tenants, even if any other family members live with them. During the course of this financial year, we will also be carrying out an exercise to try and determine the number of elderly people whose income is inferior to the minimum established, and who reside in the homes of their sons, daughters or other relatives. Once the exercise is concluded, Government will consider whether they should be included in the scheme.

Last year rumours were being circulated that the Government had permanently shelved their commitment to provide elderly and disabled people with a purpose built swimming pool. I gave a reassurance at the time that the project was still very much on the cards and had certainly not been discarded. It has taken longer than we had hoped to get off the ground due to unavoidable circumstances, but I am very pleased to report that funds to the tune of £1 million have been allocated for this purpose. The construction of the project began at the end of May with the repositioning of the GASA car park. Excavation works for the pool itself have also started and completion is expected to take place in December of this year. The complex will include an 18 X 20 metre pool equipped with a ramp, and other amenities to enable it to be enjoyed by disabled persons and elderly people, including wheelchair access. It will provide specially designed changing and showering areas. Although primarily intended for use during the summer months, it can also be enjoyed during the winter as the complex will incorporate a sliding roof and folding side glass panels, together with a water heating system and ambience temperature control. An open sun bathing terrace will also be available. Sea bathing facilities will be provided with a sea level platform and a ramp to enable access. Designated disabled parking bays will also be provided at the entrance.

I believe that those for whom the use of this swimming complex is intended, will agree with me that although it has taken longer than envisaged, it will have been worth the wait. We all know that since the disappearance of the Montagu Bathing Pavilion, many of our residents have been unable to find suitable alternative venues affording access and safety for swimming or bathing. I am confident that many will now take up the opportunity to do so, thereby adding quality and enjoyment to their lives.

Last year I made reference in my budget speech to the delay that had been experienced in implementing the new concept of independent living for disabled people. I explained that the six residents of Dr Giraldi who had originally been identified as

possible pioneers of this new service, had had a change of heart and were reluctant to move. I am pleased to say that social workers and our counselling psychologist have succeeded in convincing two of them of the benefits of this move. Therefore, if all goes well, this new scheme, which follows the trend in the rest of Europe and has been advocated by the Disability Society for a long time, will finally get off the ground.

Mr Speaker, in 1999 this Government introduced a new benefit named Child Welfare Grant which replaced Family Support Benefit. A much fairer system of means testing was introduced by taking into account the combined parental income, as opposed to the income of the highest wage earner, and by increasing the ceiling from £20,000 to £30,000. In those cases where the joint parental income did not exceed £15,000, the grant was increased from £30 to £40. The grant became available to any person who satisfied a residence condition, regardless of nationality. We have a manifesto commitment to increase the earnings limit for eligibility to this grant. I am pleased to say that this commitment will be met this financial year. The combined parental earnings limit will be increased from £30,000 to £35,000. The lower income level at which the grant is paid at a higher rate will also be increased from £15,000 to £17,500.

Government have another manifesto commitment to devise a scheme which will rectify the historic situation whereby a divorced woman loses all entitlement to a pension based on her husband's social insurance contributions. I am very hopeful that we will be in a position to implement the scheme during the course of this financial year.

Simultaneously, or shortly thereafter, we will be delivering on another of our manifesto commitments, which is to allow married women who have paid or are paying the reduced social insurance stamp, to make retrospective payments of the difference between that stamp and the full social insurance contribution, thereby entitling them to a higher pension in their own right. The adoption of these two measures will represent a

historic achievement for women in general, and will serve to give women who avail themselves of these schemes, more financial independence and security.

Another major social project is the relocation of the Prison to a purpose built facility at Lathbury Barracks. The idea of moving the prison and thereby releasing one of Gibraltar's most important heritage assets, the Moorish Castle, has been considered by successive administrations over many years but has never come to fruition. The project is not only a milestone in Gibraltar's heritage conservation, but it will also address the long-standing need to reprovide the prison into a modern, purpose built facility, away from a populated area. This in itself, will bring important social benefits to the inmates, the staff and the immediate vicinity. I am pleased to say, that £500,000 has been provided this year to commence the construction of the new prison. The Development and Planning Commission has granted outline-planning consent and the architects are now finally finalising detailed planning schedules. If everything goes according to plan, it is envisaged that works could start during the latter part of this year.

A progress report on the Government Drug Strategy was recently published. The report seeks to provide the public with a run down of what has been achieved so far, as well as an overview of the projects in progress. It has to be pointed out that a substantial amount of work has been undertaken since the Strategy's launch two years ago. There are some people, however, who view the problem from a purely law enforcement perspective. I personally understand this reaction, which is that the big fish should be targeted more successfully, so to speak. I agree wholeheartedly that those who seek to gain from the misfortunes of others by trafficking in drugs should be targeted relentlessly by our law enforcement agencies. This is, indeed, an important element of the Drug Strategy where clear objectives are set out, but there are other areas which are equally important in any community's fight against drugs. Worldwide research has borne out, for example, that drug education from an early age is one of the most effective means

to achieve change in any society. It is also a vehicle for the transmission of values and attitudes. The Drug Strategy outlines several objectives in this regard, which I am pleased to say have already been met. Very importantly, a coherent policy on the management of drug incidents in schools and educational establishments has been adopted. All teachers will now be equipped with the knowledge and support to deal consistently with drug related incidents if these occur in our schools. Co-ordinators have been appointed in all schools and educational establishments and drug awareness training for teachers is ongoing. Drugs education has been incorporated into the schools' curriculum and all children will now enter secondary education with a basic knowledge of the risks of drug misuse, delivered by both teachers and outside speakers. Close to 1,000 children at middle school level have received drug awareness presentations in the space of one year. At secondary school level, persons who have successfully completed their rehabilitation at Bruce's Farm are already assisting the Strategy Co-ordinator in the delivery of presentations which focus on the hard hitting realities of the consequences of drug abuse.

There also now exists a much greater liaison between relevant departments to identify children at risk of drug abuse and to plan appropriate responses. In addition, the organisation of sporting events, to reinforce the anti-drugs message, is being organised by the Drug Strategy Co-ordinator and comes under the auspices of the Government's Drug Strategy. This year we will also see the launching of a drugs awareness magazine. The magazine will be aimed at young people and will involve them in the production of the same. It is my view that young people must not feel patronised and must be made to feel that they are stakeholders in the drugs strategy being a success. It will also serve as a forum for the whole community in the dissemination of information on the harm and risks that drugs pose. A website is also being devised, which will also be an effective means of delivery given that most youngsters have access to the internet. The overall campaign which will shortly be launched, aims to create discussion and awareness in our community in an objective, frank and informative manner. A programme called

“Research into Drugs Education”, RIDE for short, has been in place since the beginning of the strategy. The programme is endorsed by OFSTED, the UK’s schools’ inspectorate, and both pupils and teachers have recognised its beneficial effects on childrens’ knowledge, attitudes and behaviour towards drugs.

Until the year 2000, people who genuinely wanted help with their addiction had nowhere to turn to and had to rely on informal or voluntary help. Alternatively, they had to go to Spain to Camp Emanuel which was under-resourced and could not cope effectively with the demand. Bruce’s Farm has thankfully been up and running now for a number of years and has been enhanced with the establishment of the Gladys Perez After Care Centre. The Drug Strategy Co-ordinator has been working very closely with Bruce’s Farm and he is now in the process of collating all the information available to be able to evaluate the impact of the program upon the patients; in other words, to measure the effectiveness of the rehabilitation service. The information will be used to improve access to effective drug counselling, treatment and rehabilitation as specified within the drug strategy.

Current provision, however, only allows for individuals aged 18 or over to receive residential rehabilitation. Initial research appears to show that the demand for residential treatment for under 18’s in Gibraltar, is very small. Notwithstanding this, the Co-ordinator, together with other relevant bodies, has seriously and actively looked at the viability of providing a service. A report has just been presented to Government in this regard which we will be considering very shortly. This does not mean, however, that young people with differing degrees of drug problems are being ignored in the interim. One of the strategies which has been adopted is to channel individual cases through the Co-ordinator, who after assessing their individual needs, refers them on to appropriate agencies for counselling, support or advice.

Another notable achievement in the area of rehabilitation, is the setting up of an addiction service which also serves to prevent

abuses within the health system. There is a category of patients whose addiction to prescription drugs has brought them into contact with the criminal justice system. The addiction service now offers them another means of rehabilitation. These persons are encouraged to embark on a reduction regime monitored by the Consultant Psychiatrist and the Mental Welfare Officers. They follow a programme consisting of regular contact as well as agreeing to submit to drug tests when required. A confidential register of these individuals now exists and it is updated on a monthly basis. The information is circulated to all General Practitioners, Consultants and other health professionals.

Another innovation is the setting up of Narcotics Anonymous meetings at the Prison. For the first time ever, prisoners will be able to avail themselves of the opportunity to use a tried and tested method to give up drugs. This is intended to complement the voluntary drug testing regime that has been piloted within the prison. The link between drug use and offending is only too well documented and this initiative will provide one way of trying to break this insidious cycle.

Currently, individuals who are arrested on minor charges of possession, and who admit to their offence, can receive a caution. The RGP cautions an average of 25 juveniles a year on drug possession charges. The Strategy Co-ordinator is working with the RGP on an enhanced cautioning system, whereby on arrest, juveniles who are identified at risk of progressing to problematic drug use and addiction, are offered, as an alternative, to be referred to counselling or treatment.

All the measures which I have just described have already been adopted or will be adopted this year. In addition, the Drugs Advisory Council has set itself two specific tasks for the coming year: exploring legislative measures to allow for the seizure of the proceeds of drug trafficking, and looking at ways to disrupt the activities of traffickers by creating appropriate legislative frameworks.

Moving on to Civic Affairs, the Citizens Advice Bureau continues making important inroads. The Bureau has worked hard this year to raise the awareness of the services available. The measures have included the production of appointment cards, postcards to promote volunteering opportunities, press articles and interviews on key developments, the production of quarterly newsletters and regular updates on the website about new services.

The client base relating to debt issues has increased over the last year. To be able to cater efficiently for the needs of these clients, the staff have successfully completed a "Money Advice Course" which was delivered recently by the Citizens Advice Training Services from the UK. The main objective of the course is to help clients retain or regain financial control and responsibility for their own lives. The Financial Services Commission and the Gibraltar Bankers Association have welcomed this initiative and are encouraging local banks and credit institutions to refer clients facing debt problems to the Bureau.

The Bureau has also been very active in encouraging citizens to undertake volunteer work in the department. By establishing a referral system with the disability team and Mental Welfare Officers, they have recruited volunteers who have been facing lengthy periods of unemployment due to ill health. These volunteering opportunities coupled with flexible, tailored training and support, are making a positive impact on the lives of these volunteers. Individuals who may have experienced exclusion in the past are being given the opportunity of becoming involved in the community, learning new skills and therefore being better equipped for future paid work.

The Gibraltar Bureau was invited to take part this year in the annual forum of Citizens Advice International's First General Assembly in Brussels. The forum has become an annual rendezvous bringing together advice bureaux and networks which are in direct contact with citizens. The participants come from different regions of the European Union and countries

located on its borders. Despite the fact that the creation of Citizens Advice International has been a European initiative, membership is not restricted to within EU borders. In May 2004, the New Zealand Bureau became a member and membership enquiries have been received from other continents. It gives me great pleasure to announce, that the Gibraltar Citizens Advice Bureau has been accepted as a full member of Citizens Advice International. As full members, we acquire voting rights in the forum and can aspire to become committee members of the Board. Gibraltar will therefore be submitting a representative for election at the next General Meeting of the Council in September of this year. Gibraltar's acceptance as full member in its own right not only raises our profile significantly, but puts the Gibraltar Citizens Advice Bureau at the lead of advice giving organisations worldwide.

The Department of Consumer Affairs has also developed into a fully fledged service provider over a relatively short period of time. An important development this year has been the visit from a delegation of the Corporation of London at the invitation of the Gibraltar Government. As a result of the visit, an important link has been established between both entities. This link will serve for Gibraltar to tap into the available knowledge and resources which are long-established in London. I am confident that this relationship will serve to develop and improve upon the services that the Department of Consumer Affairs offers the public.

In rounding up, Mr Speaker, I take this opportunity to express my sincere appreciation to all the members of staff within my Ministry. The Department of Social Security, the Social Services Agency, the Elderly Care Agency, the Prison, the Department of Consumer Affairs, Bruce's Farm, and the Citizens Advice Bureau. I thank them all for their unstinting support and particularly for their efforts in striving to ensure that the services that they offer the public are of a standard which Gibraltar expects and deserves.

HON J J NETTO:

Mr Speaker, Government have continued to steer public housing services and its maintenance in a prudent, planned and where applicable, emergent manner. Public housing remains a crucial and integral part of Government's agenda, and in this financial year, we will see major developments taking place that will consolidate these plans. This shows that Government are determined to continue upgrading their existing public housing infrastructure, whilst also taking into account and considering, important new emerging demands through the construction of low cost housing. This is our benchmark for future generations and these dividends will provide the justice that they deserve over the course of this Government's administration.

The Government, therefore, are committed to delivering growth in housing within the three areas highlighted last year, which, if I can remind the House includes: Growth in Services, Growth in Expenditure and Growth in Projects. This 'substantive' three-fold strategy will consolidate our plans to introduce further improvements in housing services, introduce investment in the procurement of housing delivery and encourage continuity in major capital and refurbishment projects. I wish to elaborate further by firstly highlighting growth in services.

This year, the Ministry for Housing has began centralising various types of public enquiry and contact via the City Hall Reporting Office. In addition to maintenance and repairs, other service enquiries include cleaning within the public estates, the replacement of light bulbs in housing communal areas, matters relating to housing environmental health, Government Married Quarters, et cetera. It is planned to expand this further with highways and roads and other miscellaneous enquiries, so that clients are able to contact 'one' source when seeking information or assistance. This will also cater for a centralised telephone recording system that will include 'front line' points of contact inclusive of Buildings and Works Depots. Calls may then be logged for the purposes of verification and, additionally, providing a useful source for assessing areas that may require

further customer care improvement by considering training techniques.

Again, this year in his Annual Report, the Ombudsman has highlighted Housing and Buildings and Works, as jointly having attracted the main percentage of complaints from the general public. Firstly, may I stress that although this remains a fact, it is also true that housing staff are deeply conscious and committed in the services they deliver: A fact, because I see it every day and am totally satisfied in the professionalism that they exercise in delivering these services, which they do to their best of abilities and in difficult circumstances. Secondly, it is also noted that there have been major improvements in the manner in which complaints are dealt with between the Ministry for Housing (inclusive of Buildings and Works) and the Office of the Ombudsman, which is clearly stated in his recent Annual Report. This is welcome news though the Government will continue studying ways of reducing the number of these complaints.

As I mentioned in last year's speech, the Ministry for Housing will be publishing an 'Annual Report' for the benefit of tenants, giving useful information and details of housing services. I can confirm to the House that this is already prepared and is ready for printing. The Annual Report is also intended to make people more aware of the many players that work together with Housing, thus giving as wide range of useful services and advice as possible. This will be published shortly.

The Ministry for Housing is continuing with its structural reforms which this year has seen the introduction of a 'Contract and Resources Officer' to assist in housing procurement processes. In addition, it is planned to undertake audits on Buildings and Works with a view to applying benchmarks on standards and quality of work. This will partly involve the design of a 'Defects and Reliability' system, which will focus on the supply of tendered materials, its quality and standard of application. This will generate essential feedback to senior management so that inappropriate consumables are not locally reapplied in future

works. This data will be an important source of information when studying the implications of value for money.

I wish to brief the House on the development of the Asset Register. This has steadily and gradually been developed whereby over 95 per cent of external condition surveys have now been completed, of which 69 per cent have already been inputted into the database. Similarly, in the region of 500 internal condition surveys have also been completed out of a figure of approximately 4,800, of which 93 have been inputted into the database. Obviously these figures are subject to fluctuation. In this context, the process of development will be continuous and the data retrieved will prove invaluable for the Ministry for Housing for future planning of resources.

In addition, two extra Administrative Officers have been recruited to help assist in the control and administration of Parking Permits within the Government Estates. Recently, this was successfully organised at the Glacis Estate and plans are already in place for its implementation across other public estates. The response to this bold initiative has been very positive and widely welcomed by tenants. I should point out that this initiative was carefully managed, though any lessons learnt would inevitably be considered in the light of this and with the implementation in other estates that are to be included.

What I have stated earlier is the result of listening to tenants and Tenants Association needs. Government are careful and prudent when introducing policies which affect their tenants and, therefore, people must be placed at the forefront of our minds when building on our mission: "Orientating Housing Services to the Needs of the Community".

In keeping with this policy of consultative participation, where practically possible, Government will continue meeting with established Tenants' Associations, since it is viewed as the best form of communication interface for tackling tenants' needs. As is known, I personally chair these meetings since I believe that this provides an important opportunity of positive exchange. The

Government will encourage the formation of Tenants Associations and look forward to seeing further Associations being developed over the future. Such a process augurs well for democratic participation in matters that concerns directly peoples' well being.

One such positive expansion of services to tenants was the new contract for the cleaning of Government estates in general. I have to report to this House that the feedback we receive from various sources and monitoring carried out continues to be very positive, and of course the Government are pleased that public housing estates remain on a high standard of cleanliness. I would also like to report that the same company provides a constant household removal system of furniture and the replacement of fused bulbs in the common areas of estates. Here too we have a success story with an average response time of 24 to 48 hours from the moment in which the report is lodged in the Reporting Office.

An area of important work which most of the time goes unnoticed is provided by what I have traditionally called the 'extended family of Housing'. This is by people belonging to various Government Departments, other public bodies, and private entities all joining forces together in providing direct services to the Ministry for Housing and tenants alike. One good example of this is a request by the Moorish Castle Tenants' Association in 2004, where they asked the area known as "Los gallineros" directly above the Estate to be cleared of chicken runs, derelict sheds, and the indiscriminate dumping of refuse and unwanted household goods to be cleared.

To carry out this task we brought together individuals from the Ministry for Housing, the Town Planner, Land Property Services and the RGP. Community Projects Ltd was involved in the cleaning process and it has taken a total of seven months in which a total of 187 skips of refuse were removed. In the process of clearing the area it was discovered that part of the original paths and heritage walls in the foreground leading to the Moorish Castle had been covered over a process of many

years. This in itself adds heritage value for everyone to enjoy. Additionally, with the area now cleared, the Ministry for Housing has plans to provide a soft playground area for toddlers and mothers to enjoy. In relation to Community Projects itself, this has not been the first time in assisting us, a few years ago they did a similar exercise at the top of Devil's Gap, and there is another exercise planned for the top area of Calpe Road.

On a different theme the Department of Education and Training has been and continues to assist us with much needed training programmes for our staff both on a collective and individual basis. The Ministry for Social Affairs is providing much-needed help and assistance primarily through the Social Workers; the Gibraltar Health Authority is providing invaluable support in information involving social and medical issues, through the OT Unit consultants and GP's, et cetera; the RGP for their unstinting and continuous professional support in Housing matters in the community. Here and as an aside, I would like to take the opportunity to wish the RGP well in their 175th anniversary year. Last but not least, all members of the statutory committees who voluntarily put in enormous amounts of their own free time when deciding upon housing applications. To all those organisations mentioned, their staff, management and their corresponding Ministers, on behalf of the Ministry for Housing, I would like to thank them for their generous and worthy contribution.

I briefly mentioned training earlier and wish to reinforce the message that the Ministry for Housing is determined to seek ways of introducing improvements in service delivery wherever possible. Although housing staff go beyond their core remit of duty when trying to assist members of the public, I remain convinced that training continues to be an important investment in ensuring not only personal professional development, but equally importantly, a mechanism for facilitating fresh impetus in the administrative aspects of the services we provide. The Ministry will, therefore, make full use of any training programmes provided by, or through, the Department of Education and Training, as and when these become available. Typically, the Ministry has encouraged enrolment of its staff on the Durham

University Management programmes: an excellent training initiative that is already paying dividends. In addition, customer care is a particularly crucial ingredient when dealing with the general public and I intend to continue with this programme by pursuing this further with customer care training developed by the Manchester City Council Housing Services, who are UK leaders in this field.

Last year the Ministry for Housing commissioned a consultant, firstly to carry out a study into the laws administered by the Ministry and to put forward proposals for the widening of the Ministry's powers needed to effectively address the ever increasing and complex housing problems and improving controls on public housing. The new legislation will provide amongst other things, for the following:

1. Provisions to serve a direction on an employer of a tenant who is a judgement debtor as a result of his arrears of house rent; this is commonly known as an 'Attachment of Earnings Order';
2. Provisions to create an offence to any person who occupies premises without authority or gives false or misleading information in an application for housing;
3. Decanting provisions where the premises are required either for social, economic or in the public interest of the Government;
4. Provisions to make an offence where a tenant carries out unauthorised development in his premises or in the immediate vicinity;
5. The Creation of a Housing Appeals Tribunal; and
6. The merger of the three statutory committees into one. The constitution, procedure and role of the Housing Allocation Committee would be re-provided and reinforced.

7. The introduction of new legislative provisions to prevent Government sitting tenants from investing in home ownership for the purposes of sub-letting whilst maintaining residence in Government accommodation.

Proposals were also submitted to tackle the different levels of anti-social behaviour in public housing estates. Primarily such regulations establish:

1. The need to prepare and publish anti-social behaviour policy and procedures. In formulating such policy and procedures, the Ministry for Housing would need to act in close co-ordination with the Anti-Social Behaviour Group (which will be a new statutory body) comprising members from the Royal Gibraltar Police, Ministry for Social Affairs, Department of Education and Training, Ministry for Employment, and Gibraltar Health Authority, amongst others.

The Ministry for Housing would document the history of the perpetrator and detail the acts of anti-social behaviour. They would be able to interview victims, witnesses and perpetrators (including the parents of children and young persons) and take a range of positive actions. Failing everything, the Ministry for Housing would be able to make an application to the Court for an anti-social behaviour order, an exclusion order or a parenting order. The Ministry for Housing would be under a statutory obligation to consult the Anti-Social Behaviour Group before the application of any of the three orders. The orders would be effective for a maximum of two years or less as the Court may prescribe. The regulations would also contain penalties for breaches on any of the orders.

Simultaneously, the Anti-Social Behaviour Group would also analyse, in individual recurrent cases, the source that triggers such acts of anti-social behaviour with a view to addressing the root of the problem. This could mean assisting the individual person or family in a manner that draws together the various synergies from various Government departments and other

bodies with a view to bringing that person or family into mainstream social values of behaviour.

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 wide consensus that the proposals provide an effective response to this behaviour.

In order to develop the administration process, the Government will create an "Enforcement Unit" within the Ministry for Housing, in order to provide the secretarial and legal resources to discharge its functions. At this stage, I would like to state that whilst the proposed legal and administrative measures are bold and much needed, I would need to inform the House that I envisage a process of continual adaptation over time in order to be able to reflect the legal provisions to the constant changes evolving in society that give rise to various manifestations of anti-social behaviour. Furthermore, whilst we will endeavour to tackle such anti-social behaviour in public housing, hon Members will agree that the subject matter is a very complex one touching on social values across the community.

The Government wish to implement the new legislation before the end of this year. The proposals will be embodied in three draft pieces of legislation, that is, the Public Housing Bill, the Public Housing Regulations and the Public Housing (Anti-Social Behaviour) Regulations and will set out in detail the way in which the Ministry wishes to proceed on each of these matters. Flowing from the Public Housing Bill and the Public Housing Regulations, it is proposed to modify the administrative procedures in the Housing Allocation Rules and the Tenancy Agreement.

As the House is aware, the Government commenced the Housing Advisory Council so as to inject an alternative professional source of advice on issues concerning both private and public housing. This is in its early stages of development

where greater and more accurate information is being pursued with respect to obtaining a global picture on housing supply and demand with respect to both public and private sectors. I would like to take this opportunity to thank all the members of the Council for their balanced and dedicated input. Another area of work that I feel is required would be to determine empirically the numbers of properties lying empty both in the private and public sectors. As Members of the House know, in relation to the public sector, this exercise is being carried out through the Asset Register mentioned above. However, when it comes to the private sector there has never been neither the resources nor I suspect the know-how to do it. I believe that this is an important and a necessary area of work that requires attention.

Much has been said about the number of empty flats in Gibraltar. Indeed, there appears to be a misconception on the numbers and the reasons why these appear to remain empty. Therefore I must try to provide clarification to the hon Members on the different categories of empty flats:

1. In the first instance, a sitting tenant may have opted to reside permanently out of choice in their second home in Spain. In this regard, the Ministry for Housing is closely monitoring these cases and a number of flats have already been recovered through the Courts for subsequent allocation to applicants on the waiting list. However, the process is lengthy, costly and complex;
2. There are flats that are awaiting refurbishment by Buildings and Works. However, it must be noted that since the reorganisation of the depots, the department has made substantive inroads in reducing the numbers of outstanding flats awaiting repairs;
3. Once a tenancy is signed, it can take up to three months thereafter for the said tenant to move into the flat. This tends to give an impression that there are many empty flats when in this instance it is not the case.

4. There are empty flats within the private sector. At times and for some people within the community it may be difficult to differentiate between empty flats in the private sector against those in the public one, particularly in the Upper Town, thus lending an overall impression that the total number of empty flats all belong to Government. The Housing Advisory Council will aim to establish the correct numbers of empty flats in the private sector;
5. Stemming from the development of the Asset Register there are now properties that are beyond economic repair and as such are awaiting demolition. This category of empty flats also contributes to the distended misconception on the number of empty flats that could be used for subsequent allocation.

At this point, I wish to say that Government are totally committed to the needs of those people in our society that require greater support due to matters concerning medical considerations or families who suffer social hardship through no fault of their own. Government care for these sectors of the community and will continue to provide the help and support where necessary, but they equally share with the concerns of those members of the public who have patiently been on the Housing Waiting List. As a result, the Government have introduced positive changes to the weightings placed on those named on the Waiting List, details of which were recently announced. In addition, people who have been home owners and have opted out of their own choice to sell their own homes will not be entitled to go on the public Waiting List unless, in the judgement of the Housing Allocation Committee, the sale was genuinely necessary or there is some other justification for being readmitted. Furthermore, no other person will be allowed to earn "overcrowding" points when people move into his/her home after they have sold their home, unless the Housing Allocation Committee rules that the sale was genuinely necessary. As with all such initiatives, the Government will closely monitor the situation but, nevertheless, this should provide much greater fairness across all sectors of the community.

Mr Speaker, I will now turn to Buildings and Works. At my last budget speech I mentioned how Buildings and Works changed the way they do business by re-organising the three Depots from geographical areas of responsibility to 'type' of work or product. During the last year Buildings and Works Management have continued scrutinising the electronic and other data appertaining to the historical backlog of outstanding work, with great resolve and success. The Buildings and Works department has provided statistical information regarding the historical backlog and has eliminated many of the problems associated with the calculation of incentive bonuses to the workforce, which I shall elaborate later on in this speech.

Since January 2005, Buildings and Works has tackled a large number of flats for refurbishment and returned these to the housing stock. Gone are the days, say a couple of years ago, in which there were hundreds of flats awaiting refurbishment. Today, the figure stands at around 45. Therefore the current situation is one of decreasing, despite new entries for refurbishment. In addition, the Major Works Depot has carried out extensive external refurbishments of pre-war houses at Flat Bastion Road, Lower Castle/Castle Road and post-war houses at Laguna and Moorish Castle Estates. This includes: repairs to the rendering; works to all common areas; re-roofing; replacing of all guttering; redecoration; new windows and shutters; and in some cases, the replacement of whole sections of salt and fresh water infrastructure installations. These works have been executed as part of the pre-planned maintenance programme which Buildings and Works produces on an annual basis.

In my last budget speech, I mentioned the new services introduced in the refurbishment of pensioners bathrooms and conversions and tenants with disability problems, as requested by the Gibraltar Health Authority, Occupational Therapy Unit. Approximately two to three years ago this was a product that only accounted for a small percentage of overall services. This has quickly grown whereby around 12 months ago, it became an expected product. Now, today, this has developed into a core product. For example, many Occupational Therapy related

conversions/refurbishments have been executed, making the lives of affected pensioners and people with disability much more comfortable. Buildings and Works have an on-going listed programme of these which will be dealt with before the end of this new financial year, again notwithstanding new entries and reports. It is clear that although we may need to introduce further change in our collective efforts towards achieving overall greater improvement, we will not introduce change just for the mere sake of it.

During July 2004, and returning to my earlier statement regarding the historical backlog, the exercise carried out, proved very fruitful. It highlighted several issues of extreme importance to all concerned but in particular to the workforce and especially to public tenants. Another major exercise in scrutinising the backlog of works identified that there remained a substantial level of requisitions as outstanding for Buildings and Works. Subsequent to the completion of the desk-top survey, all requisitions and errors such as repetition of orders were doubly checked, and the backlog of jobs was further considerably reduced. Management have abstracted from the electronic database during August 2004, relevant information in respect to all reports raised by tenants between the period 1st January 1999 to 31st December 2002.

I am pleased to report that a substantial number of minor jobs have already been completed with the remainder planned before the end of this financial year. This is notwithstanding what is normally approximately 130 to 160 reports in response maintenance alone, that are regularly received by the Buildings and Works department on a monthly basis. The fact is that the Response Maintenance Depot continues to plan and complete these additional requisitions and although this is a temporary measure, it has not affected Buildings and Works efforts in undertaking flat refurbishment, nor to undertake additional requests for pensioners bathroom conversions. Consequently, the Buildings and Works Management team decided to place greater priority on the 'smaller' requisitions listed in the backlog

in place of (as mentioned during my last budget speech), some major works.

The latest position since September 2004 during which time Buildings and Works seriously began to tackle head-on its historical backlog, is that it has now emerged that this has reduced considerably. No doubt Buildings and Works is reducing the historical backlog of works and I would like to take the opportunity of thanking the workforce and the management for their efforts in this regard. In relation to bonus payments to the Buildings and Works workforce highlighted, inefficiencies in the manner in which Buildings and Works were processing bonus payments, the workforce complaints about periodic payment delays were truly founded and as a result, we have changed procedures for processing these payments whereby these are dealt with on a weekly rather than bi-weekly basis. I can confirm that the workforce is pleased with the new procedures that have been put into place, ensuring prompt payment of bonuses, which is only what our employees deserve. This has had a positive effect inasmuch as it has helped to increase morale. It is also the Government's intention to introduce first and second tier audits so that we may obtain further value for money. In relation to the first tier audit, this will be carried out by the newly recruited Contract and Resources Officer in the Ministry for Housing mentioned before. In relation to the second tier audits we will commission through a Quantity Surveyor independent of both the Ministry for Housing and Buildings and Works, thus adding to greater transparency and more value for money.

Before the end of this new financial year, I intend to obtain a list of all Buildings and Works outstanding requisitions that have been raised by public tenants, between the period 1st January to 31st December 2003. Similarly, a thorough exercise will be conducted to eliminate work repetitions (reports that have already been completed but remain logged within the system), so that Buildings and Works are able to focus on our goal to reduce response times to more acceptable levels. Beyond this stage, Buildings and Works *modus operandi* will inevitably move

from being reactive to building maintenance that are based on planned or cyclical maintenance; the dividends of which will be of benefit to our public tenants. I have taken the opportunity to discuss and highlight important issues in relation to housing services and now wish to progress onto growth in expenditure.

Let me briefly run through recurrent expenditure. The Ministry for Housing has undertaken major change such as staff restructure and contracting of services. These changes had a financial effect on the Approved Estimates of recurrent expenditure for the Ministry which has increased in consecutive years. In the Financial Year 1999/2000, the relevant Approved Estimates of Expenditure was £6.275 million and this has risen to £8.964 million up to the end of March 2005, representing an increase of 42.85 per cent during this period.

During the 2004/2005 financial year, the Ministry for Housing has had to seek supplementary funding in respect of Head 3A to the tune of £64,000. However, 78.5 per cent of this sum was the result of unbudgeted expenditure relating to (a) salary increases and (b) increases in the cleaning of the estates. There has been no recourse to request supplementary funding for Buildings and Works, Head 3B.

With respect to expenditure in Capital Projects, an unprecedented level of refurbishment has been on-going. This has included works in relation to a whole range of projects from general beautification, roof and general repairs, lifts installations (which is well in progress) and other general projects. It is worth noting that since 1998, this Government's ambitious Capital Refurbishment plan has exceeded £17 million at the end of the previous financial year. This is best summed up by stating the following projects which have gone into fruition:

1. Glacis Estate Beautification and Installation of Lifts;
2. Laguna Estate Beautification;
3. 62 Flat Bastion Road;
4. Sandpits House;
5. MacMillan House;

6. MacFarlane House;
7. Willis's House;
8. Anderson House;
9. Coelho House;
10. Heathfield House;
11. Scud Hill House;
12. Belvedere House;
13. Tankerville House;
14. Prison Quarters;
15. Electra House;
16. Vineyard House;
17. Rosia House;
18. Alameda Estate, lifts at Victoria, Picton, Red Sands, Ross and Governor's Meadow House;
19. Upper and Lower Withams, which is now nearing completion, and
20. Varyl Begg Phase 1.

During this financial year, Government intend to invest a further substantial sum through Head 101, Improvement and Development Fund, for Major Remedial Works and Repairs to Housing stock. This together with well over £17 million spent since 1998, continues to consolidate the Government's strategy involving major investment in housing services. This investment will continue to play an important and crucial role within Government's housing policy over this financial year, which I shall now briefly discuss under the third and final strand of our investment strategy.

The Government will later in this financial year consider proposals for the whole area around the former St Bernard's Hospital site and the new Police Barracks blocks towards the potential embellishment and application for a reusable resource. This is much in its early phase of consideration and any major developments will obviously be announced at a subsequent date.

I now wish to summarise the housing initiatives by listing what projects are currently in hand.

21. New development for home ownership;
22. New development for a senior citizens building;
23. New development for Government rental;
24. Continuity with the Replacement of Windows and Shutters;
25. Continuity with General Scaffolding Works;
26. Continuity with Edinburgh & Bishop Canilla Maintenance and Repairs;
27. Continuity with the General Lift Installation Programme;
28. Knight's Court Lift Installation;
29. Knight's Court Parking;
30. Upper and Lower Witham's (imminent handover to Housing);
31. Varyl Begg Estate, Phase 2, Lifts and Roofs;
32. St John's Court Lifts and External Refurbishment;
33. External Retaining Walls;
34. Play Areas for Knight's Court and Glacis Estate;
35. Moorish Castle Estate Playground;
36. Alameda Estate Ball Playing Area; and the
37. City Hall Refurbishment.

I am pleased to announce that I managed to convince the Chief Minister with Penney House Refurbishment and Lift Installation.

Additional proposals for the following years include:

- Introduction of target times for Housing Maintenance Repairs;
- Referendum and Constitution House Refurbishment;
- Kent House Refurbishment;
- Churchill House Refurbishment and Lift Installation;
- Gavino's Dwellings, General Refurbishment;
- Moorish Castle Estate Beautification Scheme;
- St Jago's Estate, General Embellishment Scheme; and
- Varyl Begg Estate Phase 3, Lifts and New Roofs.

Hon Members will appreciate that such plans are indeed extensive and in keeping with Government's third strand of our investment strategy. I would now like to proceed with the new housing development scheme.

At this stage, I would like to update the House. Firstly, this Government have commissioned Consultants to design low cost housing that is focused on 'homes for life'. Secondly, the Government are currently negotiating its imminent construction. Thirdly, a new team has recently been recruited who will be tasked with the responsibility of the sales of these attractive units. May I also take this opportunity to express my regret at the delays being experienced in the start of such a pivotal project. These are mainly the result of technical events outside our direct control. That said, I am confident that these issues will be resolved quickly so that we may proceed with the imminent construction of the new housing scheme.

Members of the general public should rest assured that the delays have nothing to do with recent reports in some circles of the media suggesting that this is the result of the proximity of the runway or health and safety issues. Government will fulfil their manifesto commitment in constructing decent new homes. This has been developed gradually, prudently and resourcefully, and I would like to reinforce this message to the House, that the Government will not cut corners when it concerns major financial investment for its people. This Government will continue steering its policy diligently, and it will succeed in constructing low cost homes that our community will be proud of. This is our mission.

At this point in my speech, I would like to provide the House with a more global picture in relation to the supply side of New Housing schemes over the next four years in Gibraltar. A picture which draws together MoD transferred properties, Government led initiatives, and private developments, all of which are either targeted for low or medium income earners. Therefore, private developments or Government tenders targeted for the high net

worth have not been included from the following calculations. This is as follows:

Rosia Court	33;	
Sandpits	12;	
Carter House	12;	
Tangier Views	12;	
South Pavilion	9;	
Europa Pass Battery	16;	
F Block ONH	4;	
Waterport Terraces	396;	
Albert Risso House	140;	
Devil's Tower Site	170;	
Chilton Court	33;	
Gov't Pre-War tenders	30;	and
Europlaza	160.	

All of this giving a total of 1,026 units of accommodation. To this figure, we should add a conservative percentage rate of extra probable recovery of flats to the Housing Stock through redeployment of 290, giving an estimated total of 1,316 units of accommodation.

I would also like to state that other things are emerging which cannot be quantified at this moment in time. Firstly, although the figure for Government pre-war tenders is currently 30, it is the intention to continue with these sales at subsequent intervals. Secondly, we have to wait the return of tenders at Buena Vista, in order to see what the bids provide for in terms of numbers. Also, in relation to the reclamation of land in the mid harbour project, it is early days to know what numbers of accommodation units this will generate. Lastly, on the aspect of the global picture, the Government are just only considering the footprint of the land inside the perimeter wall of the Victualling Yard to determine its feasibility. All of this information provides a better overview of new supply of flats targeted for low or medium income earners. Government are enhancing and modernising our overall housing delivery, inclusive of our maintenance programme, the enhancement of their public

housing infrastructure with extensive external planned refurbishments throughout. The Government will construct new low cost housing for those wishing to purchase a home and there will be no let-up, over the course of this financial year or over the next four years, in the pursuance of this momentum which aims to fulfil our commitments to our local community for their benefit.

Government continue to inject major investment into our public housing services, our long-term capital planned maintenance programme, and construction of low cost housing. This involves delivering growth [in the context of housing] within three critical areas. These are: *Growth in Services, Growth in Expenditure and Growth in Projects*. This 'three-fold strategy' fulfils the emerging needs of our modern society in prudently steering housing policies, which must be in tune with the needs of our community.

Finally, and once again, I would like to take the opportunity to thank all of my staff, both at the Ministry for Housing and Buildings and Works, for their dedication and year on year improvements in services. In addition, a special thanks to my PA and PS for their loyalty, dedication and hard work.

HON MR C A BRUZON:

Mr Speaker, before I start my speech, may I ask the House to join me in paying tribute to the late Agnes Valarino for her invaluable work vis a vis the Disability Society here in Gibraltar. Having heard the Chief Minister's speech yesterday and having heard the the Hon Mrs Del Agua's speech and also the Hon J Netto, let me just say that there are lots of good ideas but it is the implementation of these good ideas that has worried me since the GSD came into power in 1996. It is comforting to some people to hear that the public finances are so healthy but it is of little comfort to the people who are on the Housing Waiting List and on the various Medical and Social lists, because in fact the provision of homes, the provision of

affordable housing, the provision of housing for rental, which was in fact promised as far back as 1996, has not happened in the full way. Only fractionally has it happened. In 1996 the GSD manifesto said "however, some people cannot afford to buy their homes. We are therefore committed to providing rental housing in support of which the GSD policy is to do this". They did indeed provide Edinburgh House rental accommodation, as the Chief Minister reminded the people of Gibraltar in his interview yesterday, but they also said that they would allocate financial resources to the building of additional rental housing should it be necessary. I am not an accountant, I do not have as much knowledge about economic matters as maybe the Chief Minister and the Leader of the Opposition, but as I have done the rounds and have visited people in their homes, if the public finances are so healthy, if the GSD Government are so sensitive to the needs of the people of Gibraltar, then where is the affordable housing and the housing for rental? There is absolutely no doubt in my mind that the biggest social problem that Gibraltar has today is housing. As a result of this many families in Gibraltar have been, and still are, suffering unduly on account of the abysmal performance of the GSD administration in this vital area of our social life.

The many housing problems that I have encountered when I do my rounds and visit people in their homes, when we receive them at the GSLP Headquarters, continues to be an eye opener. Many of the people who come to us, come to us in desperation. In many instances they come to us as a last resort, simply because they just do not know where to turn for help. I can assure the House that I am not inventing these problems, neither am I exaggerating the intensity of the suffering that I have witnessed on account of this Government's failure in not providing adequate housing for our people. It was the Ombudsman who last year in his report described or compared the Government Housing Department to the Leaning Tower of Pisa, which tilts to one side because it lies on faulty ground, saying that the ethos of its rigid working practices and lack of flexibility, made it a very difficult department to correct. I have noted the Minister's attempt at convincing the people of Gibraltar

that a lot is being done, and as I said at the beginning, there are a lot of good ideas but it is the implementation of these ideas that is taking such a long time and that worries me.

As Shadow Minister for Housing and Social Services I have realised that many of the conclusions that I have come to concerning the increasing number of housing problems, are very similar if not identical to those arrived at by the Ombudsman himself. In a number of cases, of course, this is because the same people who have shared their problems with the Ombudsman have also come to see us in the hope that we can do something to help at a political level. The waiting lists are not getting any shorter, neither is there any substantial change in the number of people who are medically and socially categorised. The very long delays being experienced by our people on the various waiting lists is unacceptable and causing great hardship across the board, forcing many of our younger couples to move to Spain because there is yet no adequate housing here in Gibraltar. Only recently, the pressure Group Action for Housing in a letter to the Chief Minister, highlighted the problems being experienced by many Gibraltarians due to the lack of affordable housing and housing units for rental, and condemned the Chief Minister personally for not addressing these issues with the urgency that they deserve.

More recently still, when the Chief Minister was being interviewed by a GBC reporter on the Government's poor performance on housing, and specific mention was made to the land reclamation and the successful construction of Montagu Gardens carried out by the GSLP, and this was Westside One by the way, the Chief Minister conveniently started talking about water penetration of Harbour Views, which is Westside Two. He retorted by saying that they could have moved faster on housing but with the same consequences as in the past. They were not going to be rushed into it. Rushed into it..... God help the people of Gibraltar if they go any slower. He also conveniently forgot to mention that Bishop Canilla, constructed during their first term in office, also suffered problems of water penetration. Was this because they rushed into it? The reality is that these

things happen and regrettably so, but of course the Chief Minister cannot be blamed. Also referring in the same interview to the 500 or so houses to be constructed at Waterport, he said that 140 were for rental leaving the Government another 160 to build for rental if they were to honour their 2003 manifesto. "But is it not too little too late?"... the GBC interviewer asked him, reminding him that they had been in Government since 1996.

I came across a Chronicle dated June 2002 and the heading says "Government to provide 500 new apartments – says Netto. Gibraltar Government will continue to invest in maintaining its housing stock and build more for home ownership, senior citizens and rental accommodation, Minister for Housing Jaime Netto said during yesterday's House of Assembly budget speech". That was three years ago, and he said, "this financial year (2002) will be one of the most important in the history of housing and this has been possible thanks to the GSD Government, which is well rooted in the Community and is eager to give local issues the importance that they deserve". In a Viewpoint programme on GBC towards the end of last year, the Chief Minister when asked about the housing project on the site by North Mole Road said, "presumably, you have noticed that it has gone out to tender and we are in the middle of the tender process for the contractors and that is a huge investment". Later in the same programme, when asked about the shelving of the Theatre Royal project, he admitted that there were "other sensitive issues that had to be given greater priority like housing for example." The reality is that these other sensitive issues, as the Chief Minister put it, have been there throughout their various terms in office but they have not had the vision to appreciate that many of the social problems our people are encountering are largely due to the acute shortage of low cost housing and Government flats for rental. One must add the failure of the Government in not providing new homes that are suitably equipped also for the disabled and their families.

We may well ask what the concept of good citizenship and 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 stress within the home. It gives rise to all sorts of pressures between family members, it gives rise in many cases to alcohol and drug abuse and sadly, in some cases, even to domestic violence. Some people have shared many aspects of this in confidence with me in the privacy of their homes. I am also encountering an increasing number of cases of anti social behaviour and more recently, the case of a homeless person who has been living rough in his car since September last year and the Allocation Housing Committee is apparently powerless, and taking rather longer than usual to come to a decision because the Medical Advisory Board have not been meeting as regularly as they should. Maybe the Chief Minister, if he does answer, might explain to me why it is that the Medical Advisory Board has not met, the last few meetings have been cancelled.

HON J J NETTO:

If the hon Member will give way I will give him the answer right now. The simple answer is that my understanding is that the last two meetings of the Medical Advisory Board did not take place because at the last minute, just prior to the meeting, on one occasion the GP and on the other occasion the Consultant, had an emergency that cropped up and the meeting could not take place, but the meeting has already taken place.

HON C A BRUZON:

Thank you but what worries me is that if the system is dependant on these meetings, there are people suffering, there are people with really human problems and somebody in the department has to make a decision. The Minister for Housing and the Minister for Social and Civic Affairs, may have noticed that I have hardly ever issued press releases on the matters that concern my two portfolios. Particularly, the Minister for Housing knows that as a result of the many people that have come to see

me I have written numerous letters to him stressing the humanitarian aspect of the problems that people are encountering due to poor housing conditions. What I feel is lacking on the part of this Government, and this is what people tell me, is real sensitivity and simple human compassion. If they were really sensitive to the needs of our people, they would have made a much bolder attempt years ago at solving the many social problems that have arisen as a result of their abysmal performance on housing. I have heard reference on the part of the Minister for Housing that at last the lifts in Knight's Court are going to start. I still remember a year ago when I was asking a question and I put in a supplementary, that a pensioner couple in Knight's Court had received a letter from the Housing Department saying that the installation of lifts was imminent and that therefore they would not be considered or be categorised in any way, that their application for housing would not be considered. By housing I mean a move from the top floor of Knight's Court to a town level or ground level home, because of the imminent installation of lifts. I also heard the Chief Minister yesterday make reference to the fact that we would now have to wait until July before we hear about the prices and details of the houses on The Sands. What do they mean by soon? What do they mean by imminent? Certain things are taking forever.

So what I feel is lacking is real sensitivity. The people of Gibraltar will decide in due course whether or not they will chastise the present GSD administration on account of their abysmal performance on housing. I certainly chastise them now.

HON DR B A LINARES:

Mr Speaker, I will be reporting to the House on my ministerial responsibilities for Education, Training and Employment giving an account of progress during the past financial year and pointing to future developments planned by the Government many of which are either partly or fully budgeted for the forthcoming financial year.

EDUCATION

The UK Government's White Paper

I warned in my Budget speech last year, that the toughest challenge for our secondary teachers and our education system in the years to come would be the adoption locally of the wide-ranging reforms envisaged in the UK for the age range of 14-19. I gave the House a brief account of the interim report published at the time by a working group headed by Mike Tomlinson the former Chief Schools Inspector on 14-19 Reforms. Since then the full report has been published outlining the working group's long-term proposals for a unified framework of learning programmes and qualifications covering all 14-19 learners in UK. The proposals are intended to be phased in over a period of 10 years. However, the UK Government have already responded in the form of a White Paper published in February this year and entitled "14-19 Education and Skills". This is not the moment or place to give details of what is a very complex and technical document but in its executive summary the White Paper proposes the following:

- Renewed emphasis on the basics throughout the secondary school phase, putting English and Maths at the heart of new general GCSE Diplomas;
- Set out a full range of GCSEs, A-levels and 14 specialised Diplomas which will replace the current 350 separate qualifications which exist today and provide alternative gateways to higher education and skilled employment.
- Employers will lead in the design of these Diplomas and institutions of higher education will also have an important role to play;
- Stretch all young people and help universities to differentiate between the best candidates;

- Re-motivate disengaged learners giving them extra support to master the basics and benefit from a new programme based on Entry to Employment.

Hon Members will agree that all this presents an exciting but challenging scenario. Although these reforms have not yet reached the stage of legislation it is important for us to keep abreast of proposed changes in UK as inevitably we will have to adopt and, as always, adapt these changes locally. For this purpose, the Department of Education has widened both the scope and the composition of the existing 16-19 working group to consider these wide-ranging developments in UK and in due course recommend to Government how to proceed locally. Since the publication of the White Paper in UK in February this year, the steering committee has met on five occasions.

The National Agreement in UK

Another important development in UK which is bound to have implications and repercussions locally in the context of parity, is the National Agreement reached between the Government, the employers and the school workforce unions. The Agreement promises joint action to raise standards and tackle workload issues. Changes will take place to amend the School Teachers' Pay and Conditions Document (the 'Blue Book' as it is called). I have to say that there are aspects of this agreement that may not be entirely relevant to our situation here – for instance the great problem they have there of recruitment and retention of teachers. The local Union has carried out a consultation process among teachers locally and it appears that many are not happy about certain aspects of the Agreement such as the employment of unqualified classroom assistants to take over classroom tasks traditionally performed by teachers. It is feared that this will undermine one of the strong features of our schooling system here, namely the manageable classroom sizes in our schools as a result of the very high teacher/pupil ratios.

School Management Structures and Allowances

In the UK, the traditional graded management allowances are being replaced by what is being called 'Teaching and Learning Responsibility Payments' (TLRs). Each school will have to be restructured and guidance is being provided by the Department of Education and Skills in UK on how to replace the current system by the new Teaching and Learning responsibilities. The aim of this change is in line with the National Agreement which places emphasis on teachers' and, indeed, headteachers' role in the teaching/learning process as such rather than the present overload of administrative chores. The starting date for the new TLRs is set for 1st January 2006 with full implementation to be completed by 31st December 2008. Meanwhile, here, all vacant management posts within the current structures in our schools are being filled with acting appointments in order to ensure the smooth running of the schools of course but without perpetuating and consolidating the present structures which will have to change anyway as from the beginning of next year. Our Department of Education has already prepared an overall scheme for the implementation of the new responsibility posts and this will be discussed with all relevant parties, especially headteachers and the Union, before implementation.

Performance Management

Performance management in schools has now become an established feature of the way in which the pay of teachers is managed. The benefits, of course, also extend to the way in which schools are managed facilitating better planning and professional development. As from last September, the third point on the Upper Pay Scale, the U3 as it is called, that is beyond the 'threshold' at the maximum of the main scale, became available to all teachers on the Upper Pay point 2 who were assessed throughout the previous two years to have sustained a high level of performance, set against well defined criteria. I can say that 171 teachers, that is 62 per cent of the total complement and below the levels of Deputy Heads and

Headteachers, have been assessed to merit transition from Upper Scale 2 to Upper Scale 3 as from September 2004. The Government, in keeping to its policy of parity, will also be awarding to all teachers the latest national pay award in UK, that is 2.5 per cent as from 1st April this year and 0.75 per cent as from September. In future years September, instead of April, will be established as the annual pay review date.

Professional Development

The Department has continued to offer tailor-made courses to meet the professional needs of schools and teachers. These range from courses to up-date staff on the latest changes in public exams to Diploma courses in management. It is important to continue to offer management courses since these will become compulsory for promotion to deputy headteachers and headteachers in the UK. These courses have been offered in conjunction with Sheffield Hallam University, 41 teachers have been engaged in the Leadership and Management course, 22 have already completed their Postgraduate Certificate, 19 are now working for their Diploma and 13 teachers are currently at different stages of their postgraduate certificate level.

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 about 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, and the statistics speak for themselves:

In 2004, the

- GCSE pass rate (A* to C Grades) was 72 per cent (68 per cent in Bayside, 77 per cent in Westside);
- A/S-level pass rate was 91 per cent (84 per cent in Bayside, 96 per cent in Westside);
- A-level pass rate was 97.8 per cent (97 per cent in Bayside, 98 per cent in Westside).

The number of students in UK universities and colleges this academic year as at the end of May is 496. The cost of tuition fees paid this past financial year by the Government is £686,139.76 (over £100,000 more than last year). As from September last year, the Government have been awarding full maintenance grants to all holders of educational awards having abolished the previous system of parental contributions. Provision for this extra expenditure has once again been made in the current Estimates.

As I announced in my Budget speech last year, the British Government intends 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 £1,250. In order to comply with EU legislation, the DfES is making plans to include EU students (and this will of course include Gibraltar students if required) in the same arrangements as for UK students once these variable fees are introduced in September 2006. These arrangements will afford loans to students repayable once the student has finished the course and is earning £15,000 or the equivalent in his/her country's currency. Our Government intends to continue as at present to fund all tuition fees and not pass the financial burden on to students. However, we are considering how this can be achieved while still taking advantage of the UK student loan scheme with the Government assuming all repayment obligations.

Education for Citizenship

The subjects of Citizenship and of Personal, Social and Health Education have always been implicit in our schools' curricular programmes but as from September 2002 they became a statutory requirement of the National Curriculum at secondary level. The syllabus comprises areas such as the following:

1. the legal and human rights and responsibilities underpinning society and how they relate to citizens;
2. the origins and implications of the diverse national, regional, religious and ethnic identities and the need for mutual respect and understanding;
3. the work of Parliament, the Government and the courts in making and shaping the law;
4. the importance of playing an active part in democratic and electoral processes;
5. the rights and responsibilities of consumers, employers and employees;
6. the wider issues and challenges of global interdependence and responsibility, including sustainable development and Local Agenda 21.

Within this subject area in the curriculum, personal, social and health education, there is a comprehensive educational programme, including elements of counselling together with behaviour modification strategies to combat the problems related to drugs (and the Hon Mrs Del Agua has fully reported on this) and on the participation of educators, teachers, headteachers, advisers in the wider drugs strategy which is led by her department.

Pre-School Education

We have six nurseries today run by the Government (as opposed to two when we came into office in 1996) catering 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. The highest demand continues to be for placements during the morning sessions, and in order to meet this demand it has been possible this coming year to provide 10 more morning placements in each of the new nurseries at St Paul's School and in St Joseph's School nursery.

Special Needs

Our policy is one of equal opportunities. As a matter of general policy, 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 for 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 at St Martin's or in the mainstream classes. Nevertheless, outreach programmes operate from St Martin's and the special units to facilitate social interaction between children with special needs and their mainstream counterparts.

Information Technology

There is now a requirement for Information and Communications Technology (ICT) to be included in the group of subjects known as the National Curriculum Core (Mathematics, Science, English and ICT). The Government have invested largely during the past financial year to equip our schools and our educational institutions accordingly – to the tune of £74,841.95. Each school

now can boast of 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 the sharing of internet access, printers, scans and other peripherals and modern software applications. And as I have stated earlier I am very pleased that this year's provision has been significantly increased under Head 102, sub-head 2 to £174,000.

Educational Exchanges

Our children continue to take part in events organised with the Municipio of Los Barrios. Many of our pupils took part in the "Dias de Convivencia" which took place in Spain on 22nd April involving children of Middle Schools and in Gibraltar on 4th May this year. A total of 200 children took part each day, 100 from Los Barrios and 100 from Gibraltar involving also secondary school pupils. Under the auspices of the Joint Cooperation Committee it is intended to expand these exchanges during the next academic year and funding has been provided for this purpose in this year's Estimates. The Minister for Sports, Mr Beltran will be reporting on the very successful participation of our young people supported by our teachers in the Straits Games, the overall aim of which is to foster understanding, friendship and sportsmanship between our youth on both sides of the frontier and, indeed, this year with participants from across the straits in Morocco.

Extra Curricular Activities

School life, does not end at the school gates. All our schools are engaged in multiple extra-curricular activities too extensive and varied to give details here, sporting, social, cultural and of service to the community in many ways. But what I should highlight here is the impressive effort made by our schools, staff and pupils, in raising funds for charity. I would venture to say that our schools are one of the main sources of funding for charity in Gibraltar. During the current academic year the

extraordinary total sum of over £40,000 was collected by our schools through a whole variety of activities, some more eccentric than others, for a whole range of local charities and international aid agencies, including the sponsoring of cows for poor families in Nigeria. I am sure all of us in this House wish to put on record and express our appreciation to the children and teachers for their efforts.

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). This was largely the result of our Government granting throughout recent years permanent and pensionable status to some teachers who have been engaged for years on a supply basis. As I stated earlier, the average teacher/pupil ratios in our schools are well above levels in UK. In first schools the average locally is 1 to 15.94 (the agreed median with the Union for class sizes is 1 to 20); in middle schools the average is 1 to 18.57 (the agreement with the Union for class sizes is 1 to 25); in secondary schools the average is 1 to 15.3.

Health and Safety Policy

Following an extensive process of consultation involving all schools, the College, other educational and training institutions, the Government Health and Safety Inspectorate and the Technical Services Department, the Department of Education and Training has now prepared a draft written document setting out its policy on Health and Safety. The statement has been prepared in pursuance of Management of Health and Safety at Work Regulations 1996. The policy document will now be submitted to Government for final approval.

Infrastructural Works

The on-going programme of repairs and maintenance in schools and other educational institutions amounted to £397,674.87. There have been two major developments in terms of capital works during the past year: The extension to St Paul's School consisting of a large assembly hall plus five extra classrooms above the hall, new toilets and store-rooms and a new nursery to replace the old portakabin. (I would like to take this opportunity, to congratulate the contractors GJBS and all others involved in the design and supervision of the works for the very high standard of construction which has been achieved). This will enable St Paul's School to take on a greater number of children given the increased demand as a result of the growth of population which is well-known in this area. Also, the state-of-the-art playground in St Martin's School and the construction of a new block in Bishop Fitzgerald School, providing additional toilets, additional stores and freeing what used to be the staff room for use as a science laboratory.

In terms of capital works the following are the priorities during the current financial year:

- In Bayside School there will be a major refurbishment of the laboratory and technology areas to ensure total compliance with the latest health and safety standards;
- In Bayside School there will also be a comprehensive painting and decorating programme, internal and external, with accompanying repair work to walls, et cetera;
- In Westside School four extra classrooms will be constructed to accommodate the very large intake in the present Year 8 (that is often referred to as the 'baby boom' of 1992) as they move in September 2006 to Year 10 when, because of the options system, classes are split up to meet the wider range of subjects. The classrooms will be built underneath the recently built

large dining hall – which makes the whole thing cost effective;

- This year's heavy rainfalls have exposed structural problems and leaking roofs in some of our schools. A survey has been carried out and all necessary repairs will be carried out before the rainy season comes again;
- In St Anne's School essential repairs will be carried out to the plumbing system;
- The Government remain committed to the construction of a new first and middle school in the Fleet Pavilion area. As part of the general development of this area, the First School will take around 240 children and the Middle School around 200. The new schools will release pressure on Governor's Meadow School and Bishop Fitzgerald School and will enable us to move St Mary's School in Town Range to this highly populated area.

I am pleased to announce that in this year's Estimates major increases have been provided in some important areas such as Head 102, sub-head 1 (Refurbishment of Educational Facilities) : from £500,000 last year to £1 million this year; in sub-head 2 (Educational Equipment): an increase of 74 per cent from £100,000 to £174,000. Other items which have been significantly increased are 1(d) for Temporary Assistance in schools including supply cover and learning assistants, from £700,000 to £780,000; 4(b) (Books and Equipment) from £440,000 to £490,000; 4(d) (Examination Expenses) from £230,000 to £260,000 given the increasing number of students now sitting for public examinations at GCSE and A-level; 4(c) (Visits of School Children from Abroad) given the new impetus from the Joint Cooperation Committee of the Government of Gibraltar and the Mancomunidad de Municipios to educational exchanges, as I have explained earlier, and in Appendix B an increase of £65,000 from £1.17 million to £1.23 million for Training and Development courses partly funded by European Social Funds.

Conclusion

I think we can all be legitimately proud of our educational system and, indeed, our current provision and thankful to all those who today as in the past are committed to the education of our people. If Mr Speaker and the Members of the House allow me a bit of pedantry at the end of my report on Education, I believe that as we look to our future in our rightful aspirations to self-determination, we should heed the advice of one of my favourite philosophers, Francis Bacon, a 17th Century philosopher and lawyer and politician, who in his *Essays on Religious Meditation* said:

"Nam et ipsa Scientia potestas est" which means 'Our strength comes from our knowledge and understanding'. I seem to note that the poor fellow was later sacked from Parliament accused of bribery and corruption, but it does not take away from his political and philosophical insight!.

With these words of wisdom, I can now turn to my report on Training.

Training

There was a time when the Opposition spokesman for Education would question the link that we created between Education and Training. I am glad this is no longer the case with the hon Member who is spokesperson for Education. How could he? In the light of the impressive growth and development of training programmes since we came into office (and on which I will now be reporting) and, indeed, in the light of the importance now being given in UK to vocational education as an integral part of a broad-based educational curriculum, the divide between the academic and the vocational sphere of education is now seen as elitist and irrelevant.

I will now give an update of the schemes and courses currently available through the Training Unit of the Department of Education and Training.

Maritime Sector

In partnership with the Gibraltar Maritime Authority and local Port Operators, arrangements are in hand to make available training provisions for the Watch-rating Certificate. Arrangements have also been made with Southampton Institute to enable young undergraduates to follow accredited courses in that Institution as well as offering them practical experience at sea as deck cadets. Sponsorship towards these courses will be provided by our local Port Operators and by the Government.

Diploma in Business Administration

Once again this year we have offered eight young Trainees on the Vocational Training Scheme the opportunity to follow a programme of studies leading to accredited qualifications issued by the London Chamber of Commerce and Industry Examinations Board. As in the past, Lecturers from the Gibraltar College deliver the Theoretical Components of this Course and participating Trainees receive related work experience with local companies, and we acknowledge the cooperation we receive from the Chamber of Commerce and the Federation of Small Businesses in this respect.

Accountancy Training

The Department of Education and Training has this past year, and expects to do so again for the current year, offered subsidies to students undertaking the Certified Accountancy examinations known as ACCA. Also during the past year similar subsidies have been made available to students wishing to follow the Certified Accounting Technicians Course. In respect of both of these courses evening classes, offering tuition in preparation for their respective exams, have been offered at Bleak House Training Institute for Private and Public Sector Employees.

Management Training

The Business Management Programme for Private Sector personnel, leading to a Diploma in Management accredited by the Chartered Management Institute, which commenced in January 2004 finished in May this year. A new cohort following the same accredited course of studies commenced in March 2005. These Diplomas in Management courses are delivered and validated by Durham University's Business School.

Civil Servants have also been offered the same opportunities to attain Diplomas in Management through courses delivered by Durham University. I am pleased to inform the House that 42 Gibraltar Government employees, from a wide range of Departments, were successful in obtaining their Diplomas in Management (Level 4) after completing a tailor-made course of studies known as Professional Development Programme. A further 16 employees followed a course of studies known as Senior Management Programme, also delivered by Durham University, and they obtained Executive Diplomas in Management (Level 5).

Arrangements are now well under way for a total of 50 Civil Servants to commence their studies in September 2005, and this will lead to the attainment of Diplomas in Management.

I had great pleasure, only last week of launching an innovative advanced programme of studies leading to a Masters Degree in Executive Management. The 30 participants in this programme, scheduled to end in October 2006, hold senior management positions in both the private sector and public sector and all of them have of course already previously attained their Diplomas in Management with Durham University. It should be noted that the Gibraltar cohort of students are the first to register in this newly instituted course run by the Business School of Durham University.

Construction Training Centre

A total of 25 Apprentices joined Intake 11, which commenced in November 2004. Training activities offered in the traditional construction trades lead to the attainment of National Vocational Qualifications at Level 2 (that is, Qualified Craftsman) and, for those who wish to pursue further studies, Level 3 (that is, Advanced Craftsman). The traditional trades I have just referred to are:

Plumbing – Wall and Floor Tiling – Bricklaying – Plastering – Carpentry and Joinery – Painting and Decorating

NVQs on offer in Construction Trades are accredited by the UK's Joint Awarding Body known as the City & Guilds London Institute and the Construction Industry Training Board. As at this month of June 2005, there are 35 new trainees who have now enrolled at the Construction Training Centre.

Engineering Trades Training Scheme

In September 2004, 12 new apprentices joined the joint Government of Gibraltar and Cammell Laird (Gibraltar) Ltd Engineering Trades Training Scheme. These young men have been following National Vocational Qualification Courses leading to awards at Levels 2 and 3 in the following Trades:

Welding & Fabrication – Electrical Engineering – Mechanical Engineering

These NVQ Certificates are awarded by EMTA – Engineering and Marine Training Authority - under which our Cammell Laird Training Centre is fully accredited to deliver their training programmes. As at this month of June 2005, there are 20 new trainees who have enrolled in the various Engineering Trades.

Vocational Training Scheme

As at June 2005, there are 161 Trainees participating in our Vocational Training Scheme which is once again partly funded by the EU's European Social Funds. There are a further 14 Trainees participating in Training Programmes, who are not eligible for ESF funding. Last year 57 per cent of all trainees found employment upon termination of their one year training programme.

School of Tourism

The present trainees enrolled in the School of Tourism course at Bleak House now follow a much more comprehensive range of study than the previous Catering course. This change has been brought about upon the advice of the industry through the Training Advisory Council. The trainees now follow a level 2 BTEC First Certificate in Travel and Tourism related topics such as Customer Service, Marketing and Destinations in Travel and Tourism.

Training Advisory Council

The Training Advisory Council which was constituted by this Government in December 1998 represents a wide range of organisations and agencies representing employers and the unions in the private sector and also senior officers in all relevant Government departments. At a meeting of the Council held on 9th February this year Council members presented papers which had been commissioned from them at an earlier meeting containing proposals which would enable the Department of Education to formulate a comprehensive and cohesive strategy on training to meet the real needs of employers and of the economy as a whole. I would like to take this opportunity to thank the members of the Training Advisory Council for their invaluable advice to Government in recent years, which has enabled us to develop what I consider to be an

impressive, comprehensive programme of training and skills development across the board, from industrial craft apprenticeships and vocational courses to professional courses in such important areas for our economy as finance, business, tourism and also health studies and management.

I will now turn to my responsibilities as the Minister for Employment. Members of the House will understand that it is not the task of the Employment Service to create or to generate employment. This is essentially an economic factor which is governed through a whole range of projects and initiatives, mainly promoted by the Department of Trade and Industry, and intended to attract investment and consequently prospects for employment. The main aim of the Employment Service can be defined under three broad areas.

1. The registration of all employers, employees, vacancies, notices of terms of engagement, contracts, notices of terminations 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 assist unemployed persons in finding 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 broad headings, (registration processes, employment assistance and enforcement of statutory requirements) that I will once again this year give substance to my report by indicating and, indeed, analysing to some extent

the current state of play in each of these areas and pointing to policy options for the future.

1. Employment Registers

The Employment Services are equipped with excellent technological resources to produce all the vast statistical data and information which is of great use to the Government in our economic planning and also as reflected in questions regularly asked by the Opposition. May I take this opportunity to express my appreciation to the Hon Mr Fabian Picardo and indeed to Mr Speaker for consenting to have all this statistical information, routinely required by the Opposition, to be supplied in written form on a quarterly basis directly to the Opposition Member. What I will try to do in this report is to analyse the given data and focus on salient factors and trends which reflect the reality of our employment situation and its implications for our economy.

I would think that a vital statistic must be: What is our total workforce? As on 31st October 2004 our registers in the Employment Service showed an active legally employed workforce (excluding directors and self-employed persons) of 17,774. As usual, our figure of employee jobs is somewhat higher than that recorded by the Employment Survey for October 2004 and which has now been Tabled in the House. I explained last year that the Employment Registers may be inflated because of failure from some employers to submit notice of terminations of employment. On the other hand the figure recorded through the Employment Survey this year, and which was quoted by the Chief Minister in his speech yesterday, is likely to be pretty accurate since the Statistics Office report that the response rate to their 1,396 questionnaires sent to all known employers was almost 100 per cent. A total of 1,381 responded with 1,061 reporting a total of 15,994 employees and a further 320 firms responding but registering a nil return in respect of employees.

The Statistics Office as a result of their 2004 Survey report an increase of 3.7 per cent in employee jobs altogether (from 15,419 in October 2003 to 15,994 in October 2004); that is 574 more jobs with an increase in the private sector of 5.4 per cent , an increase of 619 more jobs in the private sector (from October 2003 to October 2004). The Employment Survey also shows that the number of jobs in the Gambling and Betting activities has increased over the year by 33.8 per cent with 10 more firms submitting returns this year (31 as opposed to 21 last year), (and this is an area where firms have always in the past as in the present been 100 per cent responsive to the Survey).

The point I want to make here, is that the increase in our total workforce which I have reported, most of which must, of course, involve foreign labour is not at the expense of local Gibraltarian labour. I say this, because, frankly, this increase in foreign labour has sometimes been decried by the Opposition. I have to say that in the light of the statistics before us, one could be tempted to interpret their alarm in this respect as a form of demagoguery. The Opposition may find it difficult to accept it but the fact remains that the increase in our labour market over recent years can only signify, as the Chief Minister rightly pointed out yesterday, an expansion of our economy and not an encroachment into the opportunities of employment for Gibraltarians. The statistics speak for themselves: over the year 1993 the average number of unemployed Gibraltarians was 789. This figure began to drop over the years to 456 in 1995. Since 1996 the yearly average of unemployed Gibraltarians has further dropped to 332 in 2004 (and it is nice to note, although as I have promised I will not make a song and dance of it) that the average so far this year, 2005, is 300. Let me point out that the percentage of Gibraltarians actively employed within the overall labour market, according to all the figures available to us is around 63 per cent; just about the same as before the frontier opened in 1983. In other words, statistics once again show that the increase in Spanish labour and other labour from abroad since the frontier opened (14 per cent of Spaniards) has not been and is not today at the expense of Gibraltarian labour.

What is unquestionable, is the trend revealed by all our statistics which reflect a pattern of growth in the labour market in Gibraltar – in the region of 12.5 per cent from 1985 to 1995 and from 1996 to 2004 (which is of direct satisfaction to this Government) of around 23.2 per cent over a period of eight years. This is an impressive trend in employment opportunities and, of course, a reflection of extraordinary economic growth. This reality should be a cause of satisfaction to all of us and I trust the Opposition will be happy to join us in our celebration.

Another datum in the Employment Survey which is of interest worth recording is the fact that average annual earnings from October 2003 to October 2004 have increased by 2.1 per cent from £17,460.44 in October 2003 to £17,834.25 in October 2004.

2. Employment Assistance

I now turn to the second area of activity carried out by the Employment Service as I have defined it earlier and that is the assistance and advice to registered unemployed persons seeking and hopefully obtaining suitable employment. Following good and enlightened practice in employment services throughout Europe, the Job Club is intended to add a caring and personalised dimension to what could otherwise easily become a purely bureaucratic process. The Job Club is primarily intended to assist the long term unemployed, that is individuals who have remained out of work in excess of six months, and further assists other disadvantaged groups such as ex-offenders, recovering addicts and single parents who may be experiencing difficulties in returning to the labour market. In its service provision the Job Club works in liaison with the Social Services Agency, the Gibraltar College, Bruce's Farm. Among other services the Job Club offers workshops for prison inmates (as and when required) and on-going 10 week courses in literacy and basic information technology available to all registered unemployed persons. I have to say that I consider

the Job Club to be one of the most pertinent and caring elements in our community services generally.

3. Statutory Requirements

I will now give account of the statutory framework within which the Employment Service operates. The statutory instruments are:

- The Employment Ordinance;
- Employment Regulations 1994;
- Conditions of Employment Orders;
- Employment Regulations (Offences) Ordinance;
- Business, Trades and Professions (Registration) Ordinance 1989;
- GDC (Employers Insolvency) Regulations 1991;
- The Factory Ordinance;
- Working Time Ordinance;
- The Equal Opportunities Ordinance 2004.

As I explained last year, there is great pressure upon us to transpose into our local legislation the constant flow of EU directives. This process 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).

Three major pieces of employment legislation were introduced into our statute book during the past year: the Equal Opportunities Ordinance, the Constructive Dismissal

amendment to the Employment Ordinance and an amendment to the Working Time Ordinance. I was personally very pleased that these pieces of social legislation were passed by the House as they are intended to protect working people, and in particular young working people in the case of the Working Time Ordinance, protection from discrimination and, in the case of constructive dismissal, from victimisation.

The Equal Opportunities Ordinance

The Equal Opportunities Ordinance deals with discrimination across a wide range of areas, including race, religion or belief and sexual orientation. This year the Government plan to bring discrimination on the grounds of sex (which is already covered by the existing Employment Ordinance) within an integrated Equal Opportunities Ordinance, and further drafting is being done to transpose the European Directives on age and disability discrimination within this same Ordinance.

It is to be noted that under the European Directive Member States are required to promote dialogue with relevant parties, including non-governmental organisations on the terms of the legislation and to set up a designated body for the promotion and implementation of this legislation. Accordingly, the Employment Services have arranged presentations by Ms Natalia Berkovitz of the LSU to the Labour Advisory Board and to the Training Advisory Council which between them represent the social partners and other agencies and other Government Departments. Similarly, in respect of the proposed transposition of age and disability legislation we are currently in the process of consulting with relevant Government departments and non-governmental organisations and associations.

Constructive Dismissal Legislation

The Constructive Dismissal legislation was introduced after a process of consultation with the social partners in the Labour Advisory Board as an amendment to the existing Employment

Ordinance. Constructive dismissal invariably happens where the employer has made the employee's life very difficult and the employee feels that he or she cannot remain in the job although not formally dismissed. When this happens the employee's resignation is treated as an actual dismissal by the employer and redress by the employee may be claimed as an unfair dismissal.

Central European Citizens

Last year I drew the attention of the House to the serious challenge we would have to face in our management of the employment market as a result of the accession of 10 Central European states into the European Union as from 1st May 2004. We are now in the throes of this challenge – there are thousands of citizens from these countries roaming around this part of the world, particularly in Spain, knocking on our door seeking access to employment in Gibraltar. As the House is aware, we have adopted available derogation powers whereby these persons require work permits to obtain legal employment. The terms of our current legislation, on which our Employment Services must operate, are quite clear. Section 7(3) of Employment Regulations 1994 stipulates that:

“...the Director shall not issue a work permit for the worker...unless he is satisfied...that the employer has made adequate efforts to find an entitled worker who is capable of undertaking and suitable for the particular engagement”.

However, serious representations have been made to us by the Chamber of Commerce regarding the difficulties found by some employers, particularly in the Catering Industry, to recruit suitable staff to meet the demands of the industry as a result of increased tourism and more particularly during the summer months. The situation is therefore being discussed with the Chamber and with the Ministry of Trade and Industry and a policy paper will be considered as early as possible by the Council of Ministers.

Conditions of Employment Board

I have to apologise for a certain lapse in the meetings of the Conditions of Employment Board, a statutory body representing the social partners and independent members as well, who issue recommendations from time to time in order to regulate pay and conditions of employment in specific areas such as the retail trades, wholesale outlets, and licensed establishments such as bars and restaurants. This lapse was due to personal family circumstances affecting the Chairman of the Board but I can announce that we now have appointed a new Chairman in the person of Mrs Margaret Sheriff Benrimoj, a retired headteacher with long experience of trades unionism. During this year the Board has now met on 15th April primarily so that the new Chairperson and newly appointed members become acquainted. Some preliminary discussions also took place to be followed through in subsequent meetings.

Role of the Labour Inspectorate

Members of the House will understand that our legislation covers a very wide and complex area of employment situations, from control of illegal labour to enforcement of statutory requirements in conditions of employment. To oversee this general scenario is no mean task and due recognition must be recorded to the work carried out by our designated labour inspectors.

Similarly, the Health and Safety Inspectorate also has an essential role to play in protecting our community in such vital areas as health and safety. In the last financial year 10 improvement notices and nine prohibition notices were served on employers, and four employers were prosecuted for various health and safety offences, resulting in the imposition by the courts of fines.

Conclusion

I want to conclude my reports on Education, Training and Employment by thanking very sincerely all the officers in these Departments who give of their best day after day in the service of the community. I am sure all Members of the House will join me in this vote of thanks. More personally, I also want to say how much I appreciate their support, loyalty and above all their friendship towards me.

Finally, I thank you, Mr Speaker, and all the Members of the House for your respectful attention.

The House recessed at 12.55 pm.

The House resumed at 2.40 pm.

HON C BELTRAN:

Mr Speaker, I rise with great pleasure to report on all aspects of my Ministerial portfolio. This includes the Government Departments of Culture, Youth and Sport as well as the Heritage Division, Public Service Broadcasting and the Lottery. I will speak on each of them separately for the sake of clarity, given the obvious differences between the areas that I am responsible for.

Culture

The Ministry for Culture has during the past year continued to support and encourage the many individuals, groups and associations who are dedicated to the development of culture activities in our community. Government substantial investment in cultural grants, premises, logistical and advisory support has achieved its aims of increasing interest in as well as commitment to in the frequency of cultural events. The evidence for this can be found in the extremely successful

international art exhibition held in February, with a total of 108 artists from Gibraltar, the United Kingdom, France, Spain, Israel, Morocco and the United States of America exhibiting their works. Equally successful and ever growing in popularity was the more recent Spring Festival, when everyday over a period of seven weeks was taken up with plays, shows, concerts and exhibitions, including the 7th Spring Art Exhibition which had 130 paintings and sculptures on show. The Spring Festival also included arts and crafts exhibitions and demonstrations amongst many other events. Gibraltar Drama Week, organised by the Ministry for Culture in association with the Gibraltar Amateur Drama Association, saw a total of seven plays put on by a variety of groups as well as Bayside and Westside Schools. Also very successful was the Art in Gibraltar Past and Present major exhibition held in the Casemates Gallery, that saw a colour catalogue edited and published in book form by the Ministry. Once more, Ince's Hall Theatre has had the renovation works done to its auditorium and the old Key and Anchor premises have been fully refurbished and improved, converting them into a new rehearsal room and workshop directly linked to the Theatre's backstage area. All this will greatly facilitate play rehearsals as well as the preparation of flats and sets for stage productions generally. Further renovation works will start at Ince's Hall Theatre this year. This will include air conditioning and new seats for the auditorium. The Theatre has had bookings for every week of the year with a wide variety of performances ranging from drama productions, such as the successful plays Bouncers and Auntie and Me presented by Group 2000, or There Goes the Bride presented by the Gibraltar Amateur Drama Association. The pantomime Sleeping Beauty by Trafalgar Theatre Group, the Tercentenary Jazz Concert featuring Elie Macias and Isaac Attias, or again, a variety show put on by the Hindu Merchants Association, are further examples of the use the Ince's Hall Theatre has had this year. I wish to thank all those groups, associations and individuals, too many to mention all, for giving so much of their time on a voluntary basis 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.

In 2004 there were 987 bookings for the facilities in the John Mackintosh Hall, including two major art exhibitions organised by the Department of Culture. The Gibraltar International Art Exhibition and the Spring Art Exhibition, and the Calpe Conference that was organised by the Heritage Division, the theme of which was *Perspectives on Human Origins*. In addition to being a venue for exhibitions, meetings and theatrical performances, the Hall continued to actively liaise with the Heritage Division, as I informed in my last speech, providing support in working cultural research. At the beginning of the year I launched the Gibraltarians Project, a study of studying our identity through such tools as oral history, and this has seen the Hall performing a leading role in the collection of data for the database that is being compiled in collaboration with the Gibraltar Museum. 2004 was also the year in which Genoa, Italy was the European City of Culture and among the functions organised by the City a conference was held called *Mediterraneo pluri lingue* which celebrated the spread of people from Genoa across the Mediterranean and the role in commerce and culture that Genoa has played over the years. One of the events included in the conference was the presentation of a video which featured Gibraltar. The various interviews with locals, especially those from Catalan Bay, demonstrated their close connections with that City. I myself was invited to Genoa on this occasion but could not attend. We were represented by the Director of Heritage. Another notable event which took place in the John Mackintosh Hall was the counting of the votes for the first European Elections to be held in Gibraltar. As in the past, the Hall has always played a key role for the counting of votes for elections and for the two referenda that have been held in Gibraltar in the 40 years that the Hall has been opened. As regards the John Mackintosh Hall building, a total of £40,000 was spent this year on refurbishment works on this building. The activities of the Hall will continue in this light in the year ahead.

Apart from the annual grants given out by Government to support individual groups and associations, this past year a further sum of £100,000 was made available for improvements

to cultural facilities. This sum has been increased to £165,000 for this new financial year 2005/2006.

The Ministry for Culture has been traditionally tasked with the organisation of the Fair Week and National Day celebrations. To these responsibilities have now been added the organisation of the annual Miss Gibraltar pageant and this year's Nelson bicentenary celebrations. The Ministry also took over responsibility for the Casemates Exhibition Galleries, the Central Hall and financial aspects of the Retreat Centre. All three being very important assets as premises that individuals and groups in our community make substantial use of for many different social and cultural activities throughout the year. The Ministry for Culture continues to build archival material on all cultural events held in Gibraltar, both past and present. This has already proved to be of immense value to researchers in this field of work. Insofar as the Theatre Royal project is concerned, it has already been made clear in this House, by the Chief Minister included, that it remains a Government objective but one that will follow projects that are given a higher priority such as the areas of health and housing.

Sport

During the last financial year the Sports Department continued to build on the work carried out in previous years in the provision and management of the following areas:

- a. Sports facilities, including the community use of schools schemes;
- b. Technical support, assistance and advice to the schools and sports associations;
- c. Training support and sports projects, through the Sports Development Unit;

d. Financial assistance through the Gibraltar Sports Advisory Council.

Teams from abroad from various sports have again visited Gibraltar to play on the splendid facilities made available. This is greatly assisting the development of sport and enhancing our profile overseas. The works at Bayside are continuing. It is now programmed that all the new facilities will be completed during 2005/2006. The Sports Hall, hockey facilities as well as the new administration areas, are practically completed and will become fully operational imminently, as soon as all the newly recruited staff are available to commence work at the Authority. Not everybody of those recruited can start work immediately, some have to leave their present employment and it will take a couple of weeks. The Department continued to provide support, assistance and advice to the schools and associations in the provision of facilities and equipment and in the organisation of events such as, amongst others, the two international darts tournaments. The Sports Development Unit successfully continued to expand the Summer Sports Programme last summer, including a wider variety of leisure activities. The number of National Coaching Foundation Courses, together with other generic coaching courses from the British Sports Trust, SAQ International and the Youth Sports Trust run for local coaches was increased in order to meet demand. Assistance and support has also been provided to sports associations in the organisation of accredited sports specific coaching qualifications in athletics, basketball, football, shooting, skating, rugby union, squash, badminton, hockey, volley-ball, swimming, rowing, sailing, table tennis, tennis, gymnastics and rhythmic gymnastics. The tutors delivering these courses have included in appropriate cases, separate school in-service training days ensuring that many teachers and coaches have been able to achieve levels of accredited qualifications which will assist in the development of sport in Gibraltar. The objectives remain to achieve, eventually, as much self sufficiency as possible in the delivery of coaching and training. The Unit also introduced schemes for a variety of purposes such as one for outdoor adventure activities, another one for senior citizens in

partnership with Social Services and one for the Cardiac Rehabilitation Group. The Sports Development Officer is also now a member of the Health Authority's Health Promotions Committee. The Gibraltar Sports Advisory Council, and in particular its sub committees, have been meeting regularly. Taking the Council's advice into consideration, financial assistance has been provided to sports associations through the three funds available. The Government provided £110,000 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 £50,000 was provided by the Government to finance Gibraltar's successful participation in the Straits Games, and advanced some funds for expenses towards the Island Games 2005 and the Commonwealth Games 2006. The Sports Development Fund of £60,000 this past year has, together with the involvement of the Sports Development Unit and the efforts of the Sports Associations, enabled a large number of sports specific coaching courses and other development projects to be held in Gibraltar. The I&DF Improvement to Sports Facilities Fund of £250,000 enabled the provision of specific assistance to associations running their own sports facilities, as well as the purchase of essential safety and other equipment. Existing facilities were also refurbished and improved, including the resurfacing of Westside School's outdoor volley ball and tennis multi-sport areas. Negotiations with the existing departmental staff and their unions to find ways in which to incorporate all existing sports facilities into the Sports and Leisure Authority were successfully completed towards the end of the financial year. Therefore, the administration of sports as from 2005/2006 onwards will be carried out through the Gibraltar Sports and Leisure Authority. The majority of the Sports Department staff has agreed to transfer and the process to include new staff, as I mentioned before, is very near completion. This is, undoubtedly, a great success and will ensure a quality service for sport continuing into the future. Substantial funding for sports facilities will again be provided. The main aim will be to resource the Gibraltar Sports and Leisure Authority and to progress with the next phases of the extension to sports facilities

project at Bayside. In this respect, the works on the new hockey pitch spectator stands and changing rooms are practically completed, and a large amount of infrastructural works in preparation for the subsequent phases of the project have started. The tender for the multi-use games area and the water sports centre building are in the process of being awarded. The next phase is expected to start before the end of this calendar year. For these purposes £1.6 million is being provided in the I&D Fund. The Authority will also receive a contribution of just over £1 million to meet its expected money expenses.

Gibraltar sports will again participate this year in a number of official international competitions, including the 2005 Island Games in the Shetland Islands and the Commonwealth Games in Melbourne in 2006. Government will be providing £160,000 to enable our sports men and women to represent Gibraltar internationally. A number of sports events are also being organised as part of the Trafalgar Bicentenary celebrations. Gibraltar's young sports persons have also participated in the 2005 Straits Games held this year in Algeciras. This year Gibraltar has also successfully hosted the Darts Mediterranean Cup in May and will be organising the European Shore Angling Championships in October and the Island Tennis and Basketball Competitions starting next week. In the Sports Development Fund this year £60,000 is again being made available to assist sports associations, based on the submissions received, to cater for the provision of accredited sports specific coaching courses and participation in internationally recognised training opportunities in support of the development of sport in Gibraltar. The level of coaching courses will be progressive leading to the raising of standards of sport generally. The Sports Development Unit will continue to supplement coaching strategies with generic courses and qualifications and with sports development schemes, such as the Summer Sports Programme and Sports Link, a scheme to encourage formal links between schools and sports clubs. Sports facilities available for use will be greatly enhanced with the coming into full operation of the Bayside Sports Centre hockey facility, the new sports hall and the new squash court. The newly resurfaced facility at Westside will also

improve the Community Use of Schools Scheme. The excellent cooperation that has been built up between the Sports Department, the Education and Training Department and the Schools augurs well for the future. It is programmed for more of the facilities within the new Bayside complex to come into operation during 2005/2006. The sum of £200,000 will be provided to further improve existing facilities, including the Queensway tennis courts and the Stadium's old sports hall. £50,000 is also being provided to refurbish vacant premises for use by associations and clubs, although this is not restricted to sports and youth societies but is available for premises in general. In this connection, a study is continuing in partnership with the Heritage Division into the feasibility of refurbishing South Jumpers Bastion on similar lines to North Jumpers. The provision of adequate facilities at the Giralda Gardens for petanque is practically completed. In partnership with the Social Services Department funds are being provided for a project to provide a new swimming pool suitable for the elderly and disabled and for teaching purposes within the existing GASA site. It is intended that exclusive use of this facility for the elderly and disabled will be available over the summer period and that there will be shared use with GASA during winter. Works have already commenced and completion is expected by the end of the year.

Leisure facilities are also to receive a new level of support and for this reason the new Authority has been designated the Gibraltar Sports and Leisure Authority. It is expected that works on the King's Bastion leisure centre will commence shortly and the Authority is already actively engaged in looking into other recreational and leisure needs in order to extend the amenities available in Gibraltar. Sports and leisure make very valuable contributions to Gibraltar'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 the clubs, who ensure that sports thrives and develops in Gibraltar for the enjoyment and benefit of all.

I turn now to the Youth Service. The Youth Service has a policy of continuous appraisal of the delivery of its work, and also emphasising to users and the community as a whole what the value and true role of youth workers is in effect. In this respect, the ability to keep in touch with new developments in the field is crucial and time will continue to be dedicated to in-service training in order to improve its youth work delivery. The Youth Service is committed to continue this emphasis on the professional development of staff, in order to ensure that Youth Workers deliver programmes that are relevant and useful to the needs of today's young people. Youth Service full-time and part-time staff and volunteers have this year attended Health and Safety, First Aid and Listening skills courses as part of their continuous development training programme. It is programmed for 2005/2006 for training to include areas such as child protection, counselling, bullying and involving young people in curriculum and service development.

I am pleased to inform the House that the fruits of this Government's policy to offer the best possible service to our young people will be fully borne during 2005/2006, when it will be possible to operate the service with a full complement of duly qualified full-time youth workers. Their work will, however, continue to be supported by the much-valued part-time Supply Youth Leaders, who will all be locally qualified through training and induction courses. This augurs very well for the future of the service to be provided for and in partnership with our young people. Government will continue to finance not just the Government Youth Clubs but also those associations that have the interests of young people at heart, such as the Gibraltar Scouts Associations, the Guides Association and the Duke of Edinburgh's Award Scheme. Youth work is part of the wider social education of young people and as such, it seeks to do much more than treat young people as mere consumers. The club facilities are important instruments, used to deliver the necessary social education and personal development programmes and encourage active citizenship for our young people. However, a number of projects will be carried out which will not necessarily be Youth Club based, in order to encourage

non club users to get involved. Partnerships with the educational establishment and other entities dealing with young people are invaluable and continue to be forged. The Gibraltar Youth Service has acquired accreditation as a centre for students in UK undertaking youth work degrees to do their field work placements in Gibraltar. This underlines the status and creditability that the Gibraltar Youth Services has gained with training establishments in the United Kingdom. With these aims in mind, Government will continue to provide funds for the Youth Service to equip its youth workers with the skills and support necessary to deliver the Service's objectives.

The Youth Service continues to develop opportunities for young people that are educational as well as fun, such as (a) in 2004/2005 youth educational trips were organised to Brussels, as well as Sierra Nevada and Barcelona. Day excursions and visits to sites in Gibraltar were also organised. The Youth Service is also actively involved in the Cheshire Homes project. During 2005/2006 further opportunities for educational youth trips will be provided; (b) the Cavalcade floats involved young people from the Youth Centre, as well as rock bands, dance groups and disco enthusiasts in the construction of the floats. Year 9 pupils from both comprehensives were also involved in personal development programmes carried out by the Youth Service in partnership with the schools. This assists young people to identify topics that are of value and interest to them, and with the support of Youth Service staff and other volunteers, carry out their own research and help in putting the projects together. Credit must be given to the Youth Workers who were able to respond to the young peoples initiative and work with them to create a relevant learning experience. This is the real value of youth work and the importance of having competent and properly trained youth workers. Opportunities for young people to visit local places of interest continues, with groups visiting Lower St Michael's Cave, the City Fire Brigade, the local Museum and the Gibraltar Broadcasting Corporation premises. Local enthusiasts and professionals have visited Youth Clubs to talk to members about a number of relevant topics, such as health hazards, local projects for the disabled and women's

groups, and also sports and leisure activities such as skiing. The Duke of Edinburgh Award Scheme also gets support for the delivery of its programme. The award is currently experiencing a boom in the number of young people who follow its very demanding programmes. The award is a successful youth development programme that attracts young people from a wide variety of backgrounds and with different levels of ability. The award has moved to the Youth Centre, thus providing a central venue for participants to continue with their respective programmes. Government, I am happy to confirm, have already provided a site for a new Duke of Edinburgh Award Centre that the leaders of the Scheme intend to construct in the new Sports Complex at Bayside. Government will also continue to assist the Guides Association and the Scouts with funding to help them with their training and other projects, thus confirming Government's support to those groups and associations who are willing to support their young leaders in an accredited manner.

For the year 2005/2006 the Youth Service has plans to continue its working partnership with the comprehensive schools in the personal, social and health education programme. There is also a trip planned to Bracknell as a continuation of the conference held in Gibraltar as part of the active citizenship project, with new young people who have joined the original group. Projects in conjunction and partnership with the Luce Foundation and the Tall Ships Youth Trust, as well as with the Sports Development Unit will also be taking place.

The Youth Service will continue to organise and run the Youth Pavilion at the annual Gibraltar Fair, and whilst mentioning the fair and in case any doubts still exist arising from erroneous information circulated by the Hon Steven Linares, let me assure everyone that in spite of the Hon Steven Linares' mischievous protestations to the contrary, that charities will not have to make any payment of any sort to set up a stall at the fair. Nor is there any official form stating that charities have to pay anything. I therefore wish to state quite clearly that any document, any piece of paper that the Hon Steven Linares may claim to possess, has not been issued by the Ministry for Culture. I hope

that this is now very clear. Opposition Members are brandishing pieces of paper which do not emanate from my department, anybody on a computer can today write any form of their liking.

HON F R PICARDO:

I am not asking the Minister to give way, this is a point of order. I am asking him whether he is making an imputation against the hon Member.

MR SPEAKER:

I did not hear the remarks of the Minister as an imputation against the hon Member in person. What I heard was 'any person can produce a document'.

HON S E LINARES:

As a point of order. The Minister is actually saying the document that I have produced, because I have been the only one to produce it, so I am afraid he cannot say that he is not implying me. I am now asking whether it is me that he is implying that I actually forged or otherwise that document and I would like clarification in this House now, please.

MR SPEAKER:

My understanding of the Minister's remarks was not aimed at any Member in this House personally. What I understood was a reference to the document is capable of being produced on a computer by anyone. I did not understand the remarks as meaning referring to the Hon Steven Linares himself, but if I am wrong in my interpretation is the Minister suggesting that the Hon Steven Linares produced the document?

HON S E LINARES:

No, he did mention my name.

MR SPEAKER:

As the person who produced the document or brought it into the public domain, not as the one who.....

HON CHIEF MINISTER:

Mr Speaker, if Opposition Members listened a little bit more carefully instead of rising to their feet in an excitable state, wagging their fingers in front of them, they would have understood (a) what the Minister said, and (b) what Mr Speaker said. No, the Hon Mr Picardo rises to his feet like a barrack room lawyer, adjudicating upon the fact that this was a point of order and not even waiting for Mr Speaker to decide whether it was a point of order or not. The Speaker then replies to the Hon Mr Picardo saying that this was not his interpretation of the words the Minister had uttered. Whereupon the Hon Mr Linares leaps to his feet and repeats exactly the same accusation. Well, I am sorry, this Government are not going to enter into dialectic stupidities of that sort. It must be obvious to Opposition Members that what the Minister has said is that the document that he is brandishing in front of him, and that they all giggle about as soon as he said what he had said, is not an official publication of his Ministry. If somebody has given it to him, then he has been given a document that is not an official publication of the Ministry. How he, or anybody else could possibly read into those words any particular attribution as to who might have been the author of the document, or the producer of the document, I cannot possibly conceive. Which is not to say that we are saying that it is them or not them, we have got no idea of who it was and in that formula of words is not open to the interpretation that it is him. But nor is it open to the clear interpretation that it is not him, he has not seen the document,

we do not know. The Government have put out a statement through the Minister in which he has said, this is in press releases not what has happened here today: 'if the hon Member has in his possession documents which purport to be from the Department and which say that there is a new charge being introduced, then he should understand that that is not the official document. That is the statement that has been made to the press, to which the hon Member has replied in the form of a letter to the editor of a newspaper, published in the last couple of days, saying 'that statement by the Minister cannot be right because I have got a piece of paper that shows the contrary'. In other words, simply taking the debate back to where it was, which is what the Minister was responding to. Now, the hon Member clearly has in front of him a piece of paper that either is or purports to come from the Ministry, or from somebody in it, which suggests what the hon Member is alleging, namely, that there is a fee introduced. The Minister says, 'I do not know what piece of paper you have got, but any piece of paper that suggests that the Ministry has introduced a new fee, cannot be the Ministry's paper because that is not the Ministry's position'. That is what the Minister has repeated here this morning. In no part of that is there any insinuation that the hon Member is the author of any forged document. The Minister has not even said that there is a forged document, let alone suggest who might be the authorship of the forgery. Hon Members can now all get up and speak what they like. In the ordinary words of the English language nothing of what the Minister has said is open to the interpretation that the hon Members have angrily sought clarification of. In the English language the words uttered by the Minister are not open to the interpretation that the hon Members have deduced from it.

HON J J BOSSANO:

First of all I have to say that the ruling made by the new Speaker of the House is that everybody can speak when there is a point of order, which is a new ruling, because from my experience when somebody has made a point of order either the Speaker

has ruled, or the Speaker has asked the person who was speaking to make his position clear, not anybody else. But now that he has established his precedent, presumably, and he has actually explained that what he was doing was standing up to explain what his Colleague had said or had not said, which he claims is evident to all of us so I do not see why he felt the need to do it, but let me say I heard his colleague saying very clearly that anybody can produce anything on a computer. Now, whatever the intention might have been, the possible interpretation in the context in which it was said was, 'well for all we know, you have manufactured the piece of paper yourself which you alleged'. The point of order being made was if that was not the interpretation that was intended should be put on it, the Minister should clarify by saying 'I am not suggesting for one moment that the Member that has come here.....'

HON CHIEF MINISTER:

There is nothing to clarify.

HON J J BOSSANO:

Now it seems that there has been a further codicil to the new ruling of point of order, one can now actually continue on the debate of points of order without even standing up, from a sedentary position. What I am saying is that in the context where the hon Member is accused of being mischievous and in the context where it is categorically stated that no such document has been produced by the Department, of which the hon Member is Minister, he has not even said 'to my knowledge it has not been produced', he is stating this as a matter of fact. He has not even said 'well if somebody has done it they have not done it with my permission'. He has not said any of that. He has said 'it has definitely not emerged from my Department and therefore the hon Member ought to know that anybody can manufacture anything on a computer nowadays, and you are being mischievous'. Well, look, there are two possible

interpretations. Either he is being mischievous because he knows it has been manufactured by somebody else and deliberately chooses to turn a blind eye to this forged document and uses it; or being mischievous because he has manufactured it himself. Now if neither of those two interpretations were intended by the Minister, and he cannot say 'well look, I do not know whether you did it or not. What did you mean when you said it?'. All he had to do was to come up and say 'I was not trying to say the hon Member has done it himself, I was just trying to say that how does he know that some third party has not done it?'. That is all that was required.

MR SPEAKER:

To the extent that I have permitted some sort of debate to generate out of a ruling on a point of order, I do apologise. I put it down to ignorance of the precise workings of the rules. Taking the point which the Hon Mr Bossano has made, I did make a ruling on the point of order the Hon Mr Picardo did but that was challenged, the Hon Mr Linares questioned it and unfortunately, that led to further debate. I hope I have clarified the position and am allowing the Hon Mr Beltran now to continue his speech.

HON C BELTRAN:

Thank you Mr Speaker. I will now continue with my report on the Youth Service. The Youth Service also contributes to the Drugs Advisory Council, the Royal Gibraltar Police Youth Forum, the Community Consultative Group and works closely with schools and other agencies that deal with the welfare and personal development of young people. Issues of drug abuse and bullying, as well as loneliness, low self-esteem, disaffection and labelling amongst young people have been identified as requiring attention, in partnership with relevant agencies. The service will continue with its efforts to establish greater inter-agency cooperation with schools and local community groups, and sees this as a vital component of their role. The Youth

Service intend to continue reviewing and adapting its programme to suit the needs and preferences of young people. This will also impact on the training programmes to be offered in the future. Refurbishment works were carried out in all the facilities and such improvement works will continue in order to ensure safe and adequate facilities are available. A full-time youth worker will now be working from each Club, thus ensuring more time and easy availability of professional support for young people and the neighbourhood as a whole. Discos are also held for young people as part of projects being undertaken at the Youth Centre and Laguna Youth Clubs. Government will ensure that the Youth Service is well placed to meet its obligations to young people in particular and the community as a whole. Government attach great importance to services and facilities including in the area of leisure 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. It is also evident that a lot of good work with and for young people is also being carried out by volunteers, and their efforts will continue to be recognised and supported by this Government.

I now go on to Heritage. In my speech last year I highlighted how the new Ministry for Heritage, Culture, Youth and Sport had signalled the final stage in the process of consolidating Government heritage functions under one section – the Heritage Division. The financial year gone by has seen the early products of such a step. The Heritage Division has been heavily involved in research conservation and interpretation projects, keeping well to the strategy that I spelt out at the time. Hon Members of the House will recall that this strategy was centred around four cornerstones. (1) Knowledge and information; (2) Public awareness and access; (3) Stewardship; and (4) Economic and Social benefits.

On the research front I am pleased to report that the pre-history project PaleoMed continued to run successfully, and that significant research results continue to emerge and will appear in the international scientific literature during the course of the

year ahead. Already, during the last year, two articles have appeared in a prestigious Science Review journal, that is ranked number one in the world in this scientific discipline. The EU funding for the project ended on schedule in October, but the Government of Gibraltar will continue to fund this major project and new applications for further funding from the EU are also being considered. I want to stress the huge importance of this project and of our prehistoric sites in world terms, as it is easy for us to attach greater importance to our visible monuments than it is to less obvious sites such as caves, for example. I am reliably informed that Gibraltar has the highest density of sites with occupation by Neanderthals than anywhere in the world. A staggering total of eight in six square miles. Discoveries continue so this figure may well increase even more in the future as research proceeds. The evidence found shows that Gibraltar was a major refuge for these prehistoric people, and one in which they survived for a very long time. In world terms, the prehistoric landscape of Gibraltar is our major heritage asset, which is why the Government of Gibraltar are so keen to ensure its conservation and protection as well as its international promotion. The excavations will continue this summer and, as in previous years, an international team of experts will come to Gibraltar to work in collaboration with the Gibraltar Museum. In addition, the new major discoveries of prehistoric rock art in St Michael's Cave, will be conserved under specialist guidance during this financial year so that they can be enjoyed by the public. Further surveys will be undertaken to establish whether there are other areas of the Cave with similar artistic expressions. Work on our medieval heritage has also progressed in leaps and bounds. Only a few weeks ago I re-opened the 14th Century Medieval or Moorish Baths in the basement of the Gibraltar Museum, after a period of over two years of restoration. The Baths have already been visited by many Gibraltarians and tourists, who have been most impressed with the result that has been achieved. It is the combination of Government funding support and Gibraltarian and outside expertise that has produced such wonderful results. This work is not at an end. As part of a future phase, investigatory work has already commenced in other parts of the Museum building,

and I am able to inform the House that the exciting indications are that other structures hitherto unknown, are likely to make the possibility of an enlarged medieval baths complex a reality in the future. This same partnership with Government and experts has been put to good use in the Tower of Homage. The restoration of its internal fabric in its first phase was completed in March of this year, and the plans are to interpret and make this part of the Castle accessible to visitors in the near future. With the release of the areas currently occupied by the Civil Prison, opportunities will arise for later phases of work that will open the entire Castle complex to visitors for the first time. The work that has been carried out so far has been designed with this aim in mind. The opportunity of the works in the Northern Defences area has been taken to conduct archaeological work in this part of Gibraltar. The most exciting find has been that of the two supporting pillars of the medieval Gate of Granada, that was the entrance to the City of Gibraltar in Muslim times, 700 years ago. This Northern Defences project will soon permit the opening up of other areas, in keeping with our stated aim of opening up heritage assets for public enjoyment generally.

The Government continue to support international awareness of our heritage and a good way of doing this is through the Calpe Conference series. For this year a conference entitled 'Sentinel of the Mediterranean – Gibraltar, the Navy and the Straits' is being organised to coincide with the 200th anniversary of the arrival of Lord Nelson's body in Gibraltar after the Battle of Trafalgar. It will be the centre piece of a programme of activities led by Government that I launched last month. The Calpe Conference is being jointly organised by the Gibraltar Museum and the National Maritime Museum in Greenwich, and I am very pleased to say that this conference, the Calpe Conference in Gibraltar, will form an integral part of the official, international calendar of events related to the Bicentenary of Trafalgar worldwide. Also as part of the 200th anniversary we have commissioned a statue of Nelson from a very well known sculptor in the United Kingdom. The statue will be placed in the vicinity of Trafalgar Cemetery and it will be unveiled by the Chief Minister on Friday 28th October 2005 at 5.00 pm. Also in the

Trafalgar 200 programme is a two month exhibition on the same topic as the Calpe Conference, and it will be opened at the Casemates Vaults from 5th September to 5th November. It will be organised along similar lines to the highly successful Tercentenary Exhibition that received excellent reviews, including from The Times newspaper. Once again we are retaining a successful formula providing the financial support to make projects tangible realities.

Staying on the subject of public awareness for a moment, the Ministry has continued to support the programme of public lectures organised by the Gibraltar Museum. The Division's heritage magazine continues to be published and distributed free of charge and a new website was recently launched by the Gibraltar Museum, as part of this same programme of bringing heritage to the community.

Last year I spoke of our World Heritage bid and I wish to return to this subject briefly because there seems to be some confusion as to our position. The Government were concerned with the implications of certain technical aspects of the bid, and in order to study the matter carefully and consider the best way forward that would ensure a successful bid, the Government informed the United Kingdom Government last year that they were considering the specific details of the proposed bid and that they would inform the United Kingdom Government once a decision had been reached. The Government have taken the responsible course of action that will ensure a successful bid, and I categorically deny suggestions that we have pulled out of the bid. I am pleased to report that after discussions with officials I have instructed the Heritage Division to proceed with a draft management plan that the Government of Gibraltar will consider in the first instance. Such a plan will specifically delimit the heritage assets to be included in the bid and the way forward in the global management of these assets. On balance, the Heritage Fund is moving forward in a planned and coherent fashion and we are seeing the tangible results of our efforts each year.

I now turn to the Government lottery. The forecast outturn for the Government lottery for the financial year ended 31st March 2005 is shown in the Draft Estimates of Revenue and Expenditure as a projected surplus of £18,000. The projected surplus for the financial year ending 31st March 2006 is estimated to be £511,000. The level of returned tickets during the year ended 31st March 2005 is forecast to be around 28 per cent of gross sales, compared with 29 per cent in the previous year. However, prizes on returned tickets are lower at 15 per cent of gross prizes payable, compared with the Approved Estimate of 32 per cent and the previous year figure of 16 per cent. The tender for the administration of the lottery was awarded on 2nd 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's review of the Government lottery conducted by the Treasury and discussions with the lottery agents, have been considered by the Government and some of the proposals are being implemented. These include the following:

1. A logo was designed and signs incorporating the logo placed at all lottery sale outlets;
2. Credit card size calendars were produced highlighting draw dates for public awareness;
3. An exercise was carried out to encourage sales of 'fijos'; fliers containing lists of available numbers which could coincide with car registration numbers were distributed to the general public. The GBC lottery set was renovated to include the logo. A GBC radio advertising campaign has been introduced. Draws will soon be changed to Tuesdays to encourage further sales on the Monday.

I now turn to my last area of responsibility, and that is broadcasting. During the past financial year the GBC continued to successfully discharge its duties as Gibraltar's public service broadcaster. Its work as a public service broadcaster was most

evident in the coverage of the European Parliament Election. When making the arrangements for the European Election coverage, the GBC liaised closely with the UK Electoral Commission, the Gibraltar Returning Officer and the BBC. This cooperation facilitated and enriched the work undertaken by the GBC, whose coverage extended to events in other areas of the South West constituency in the UK. During the year the Corporation focused its programme coverage efforts on the Gibraltar Tercentenary and a large number of events were covered in a variety of radio and TV programmes. Amongst these was the Holding of Hands Around the Rock, the variety shows staged at Casemates Square and the granting of the Freedom of the City to the Royal Navy at Alameda Grand Parade. It is heart warming to see how the community identified itself with the services provided by the Corporation. This was most evident last December when its now traditional Open Day raised £100,000 for charity. A programme development plan that has experienced some slippage is the live streaming of Radio Gibraltar over the internet. The project is now back on track and the service will very shortly be available.

As regards the Corporation's finances I can inform the House that it has generally continued to operate within the approved expenditure limits. Of concern to the Corporation however, is the recurring problems experienced in the collection of the TV licence fee. In this connection, a review of the steps necessary to ensure the collection of TV licence fees from defaulters is currently under way. As to the staff retirement benefit scheme, measures necessary to protect the fund given the changes in the financial markets are being considered. Looking ahead to industry changes and how these may affect its programming, the Corporation has continued to keep itself abreast of digital technology. However, at an international level, decisions for the allocation of digital broadcasting frequencies are not due to take place until 12 to 18 months time. Preparatory work at GBC does, however, continue to take place such as in digital video editing facilities, for example. As in previous years the Government will continue to provide financial support to the Corporation. This year it shall be making available a total of

£1,213,000 and a further £200,000 as part of the Improvement and Development Fund.

In conclusion, I wish to place on record my sincere thanks to all members of staff in the various departments and other areas in which I am responsible, for their hard work and support throughout this past financial year. I also wish to pay tribute to the unstinting commitment and devotion to the development of culture generally shown by Mr Manolo Galliano, Director of Culture, over many years. Mr Galliano is retiring from the service in a few weeks time. His energetic, enthusiastic and skilful approach to his duties has been invaluable in the development of a successful Culture Department.

HON S E LINARES:

Mr Speaker, we are presently governed by a GSD Government that do not have a medium to long term plan in most areas and departments, as my Colleague the Leader of the Opposition has demonstrated with the economy generally, but also in relation to Education, Training, Youth & Culture which are my portfolios. I will endeavour to show why this is so.

On the Education front it is clearly shown by the fact that the GSD Government have failed on many issues due to mismanagement which has left the Government Finance in a mess. I have been asking Questions in this House on many issues, but two, which are awaiting to be presented to this house are on Truancy in our schools and Nursery Education. After several questions in 2001 in relation to truancy, the Minister stated that the legislation was to be based on the UK's Crime and Disorder Act 1998. In 2002 it was at an advanced stage he said, and on the agenda for the next Council of Minister's meeting. Since then I have asked questions on this issue in virtually every session of this House. To date this legislation has not seen the light of day, yet we spend time passing EU legislation which at times has no relevance to us, and legislation which affect our society and more importantly our children are

ignored. The second is in relation to Nurseries where nothing has been presented or done. In this area of education the Government are not fulfilling their duty. As mentioned in other budget addresses and in Question Time, it is recognised by all that "...effective pre-school education is recognised today as a key factor in successful schooling." A quote from the Minister himself. The situation has arisen that due to the closure of a private nursery recently, and the fact that another nursery is to be moved yet again for the fifth time in as many years, parents are encountering difficulty in finding places to enrol their children. Due to this Government's policy of not providing places in government nurseries on a full time basis and the lack of places on the private nurseries which is diminishing, we are finding ourselves with parents not knowing what they are to do since they need to work to sustain paying bills which this Government have increased and mortgages monthly. There is also the fact that there is the lack of support that private nurseries receive from Government since the mad rush before the Election to try to patch up the situation with the private nurseries, yet another year goes by and nothing has moved. The last private nurseries inspection conducted by the Department of Education was in 1997. That on its own proves the lack of commitment of this GSD Government in this area. It is the lack of policy that creates these situations. Another year in which nursery education has been left to one side since no substantial funding has been provided in this years estimates.

On the issue of supply teachers and the nonsensical way it has been handled is another example of mismanagement of the sort which has been affecting those who have been in this situation. Permanent supply, which is a contradiction in terms, as has been stated on numerous debates in this House, has meant that young teachers have not been able to settle. If they are lucky to find a house to buy (I insist, very, very lucky) they are not able to obtain a mortgage due to their job insecurity. This is coupled by the fact that supply teachers do not have the same rights as their colleagues in school. Now after eight years in Government and many questions in this House they are finally going to give contracts. I have heard via the grapevine that this will be

happening as from September. We hope that classroom aides will also be given contracts and not employed on a supply basis, since theirs is the same argument as that with the supply teachers. The issue of the supply teachers is similar to the parental contribution issue which at first the Minister was not convinced and at the end they conceded.

This GSD Government has also mismanaged issues relating to the purchase of stationery in which we have had changes made disrupting schools. Since 2002, in which questions were asked on the issue, the Government decided to do local buying, then it was UK purchase but by tender. Then it was all under consideration due to delay in the delivery of stationery to schools with again, the obvious disruption to school work. They also realised that it was costing more and that the schools were missing out financially. The capitation had to be increased by 3 per cent. In his address the Chief Minister said that the complement of teachers has increased. Has he realised that there are more children now in schools than there were in 1996 where his comparisons begin? The increase in complement of permanent and pensionable is four from 304 headteachers and teachers in 1996 to the current figure now of 308. I guess he conveniently forgot to say this. In relation to the increase in complement, it is important to note that since the number of teachers have been employed on a supply basis, this is recorded in the Estimates as temporary assistance. Therefore, it seems as if there is a great incidence of absenteeism when this is not the case. We will see how this is reflected in next year's Estimates since it is definitely not reflected in this year's Estimates. So asking for budgetary discipline, as the Chief Minister does to his Heads of Department, becomes a nonsense when it cannot be proven whether absenteeism is the cause of money badly spent. This type of mismanagement is yet another example of the lack of medium to long term planning and policy. They introduce schemes without having costed them, or even prepared the ground as to its consequences.

We then move on to the shambolic way in which the funding for children attending the GASA swimming pool has been handled.

In an attempt to pass this cost on to schools and the headteachers not having budgeted for this expense, it meant that the children have not gone to the pool. It is amazing that this year hardly any child has gone to the GASA swimming pool from schools. Are these the sort of budgetary discipline measures that the Chief Minister talked about or are these measures not cutbacks? This has had the effect of children not having the benefit of fulfilling part of the national curriculum. When asked in this House the Minister stated that the GASA fees were now to be met from the examination expenses vote. I ask myself, what has examination expenses got to do with children swimming in the pool? But, there it is, mismanagement at its best, I presume.

In the area of schools specifically, we are still encountering problems on the maintenance programme or lack of it, but one school in particular which serves a part of town which has been totally neglected by this GSD government, is the upper town. I am referring to St Bernard's School. Again, I have been asking questions in this House since I was first elected. The first of these questions was way back in 2000, Question No. 473/2000 to be specific, and the Minister stated that Government were reviewing the relocation of this school. When asked again in Question No. 239/2001 St Bernard's school was still under review but this time his department was looking closely at the problems. To date, we have the school in the same place encountering the same problems that his department were closely looking at and that he has recognised in answer to some of the questions. It is sad to see that the £1 million refurbishment programme announced will not be enough to cover the cost of the relocation of St Bernard's school.

On the post 14-19 Education, which is an invention by the Minister, the lack of policy and drive at a political level has been demonstrated by the number of times that the committee which the Minister set up to tackle this important part of our education system has met. I think it is about time that we realise that we cannot continue judging our education system by looking at statistics of passes at GCSE, AS and A level results. We have to

judge our education system as a whole, including the results we get from those who do not sit these exams. We must look at other avenues. The recent Tomlinson Report has opened up the debate as to how we are to assess and best educate students from 14 to 19, and it is now well known that the UK Government have already rejected many of these recommendations of the report and have published their own White Paper, as the Minister mentioned in his address before. But that does not mean that his committee should not look at the report independently from the UK Government. One would have thought that after publishing the said document the committee would have met to discuss the consequence or otherwise to our own system. The Minister as the main party concerned on the issue should have, as chairman of the committee taken the initiative of calling meetings of the committee before. He should be the driving force and frankly speaking, one would have thought that the Minister for Education, as a former headteacher who has taught children of that age, would have a lot to offer in that Committee. Unfortunately, the answers to some of my questions on the issue are depressing to say the least. The committee was formed in 2000. In 2001 the committee met twice, in 2002 he said on a number of occasions and that it was still at a consultative stage. In his budget speech that year, the Minister said that it was important to keep pace with UK developments. This year he has reiterated this by saying that we must keep abreast with developments in UK. I therefore hope that this committee now takes a pro-active stance to this very important area of our education system. I think that it is important to discuss 14-19 education in other advisory committees, such as the Training Advisory Council, since 14-19 education is related to training. It would also be advisable to include all parties in the training sphere, such as representatives of the Construction and Training Centre and the Cammell Laird training schemes mentioned by the Minister in his address.

On the training front we have lots of press releases, presentation of awards, but is this the reality? We in the Opposition get complaints about courses being terminated without explanation, and at times without any reason. We have

had complaints about civil servants not being funded by Government to complete their courses, simply because they are not of a HEO grade or above. The Hon Mr Netto and the Hon Dr B Linares have mentioned the management courses and the complaints are about specifically that course. That is out of the 42 civil servants that completed the course, some are willing to continue but are not allowed due to their grades within the service. Some of the adult education courses have been axed without reason. What is worse of all is that this Government might be conducting numerous training courses, but there is no in-depth study as to its effectiveness and the applicability to our economic needs. Training courses for users at St Bernadette's Occupational Therapy Centre, which is recognised by the UK and other countries, will be welcomed. A review on the vocational training scheme is necessary since there has been a lack of interest and intakes are falling.

Youth. Since the GSD came into Government in 1996 we have seen a vast increase in juvenile delinquency. Our courts have to deal with more and more cases every year where our youths are involved. We have seen that all the voluntary youth work that had been carried out in the past has disappeared. Youth clubs are only opened three times a week in the evening. I understand that the youth service conduct useful programmes at times, but we must look at ways and means of trying to do things that will interest a wider section of our youths. Young people tend to vandalise when they are bored. Organising events at youth clubs have traditionally attracted young people and have kept them off the streets. I believe that the programmes currently running in the youth service are useful, as I mentioned before, but not all our young people are specifically inclined to follow a programme. All they want is probably a place in which they can meet to socialise and be with friends, and quite frankly having youth clubs opening only during office hours and three times a week does not help. The youth service should be given the proper resources to try and work with those charged by the courts for petty but annoying offences. In reference to the address given by the Minister for Social Affairs in relation to the Drugs Strategy, it is important to note that she linked drug use

with committing offences. In the last House I have asked in relation to juvenile courts and the figures are alarmingly high. I asked for statistics since 1994. In that year juveniles that appeared in courts did so 418 times; in 1995 412 times; in 1996 436 times; by 1999 it went up to 1,108 times; in 2002 the staggering figure of 1,249 and in 2004 853. This is why a careful review as to the coordination between the youth service, the Social Services, the Department of Education and the courts is needed. In relation to anti-social behaviour, which is an issue which our youth should be involved in via the youth service and youth clubs, it might be an idea to have youth clubs opened more often, and thereby improvements might be seen in anti-social behaviour issues which the Minister for Housing mentioned.

Before I move on to the Theatre Royal or the crater in City Mill Lane, it is no longer a hole it is now a crater. Comparing Westside 1 with the Theatre Royal is just an attempt by the Chief Minister to con the people of Gibraltar. Has he realised that in Montagu Gardens and Harbour Views there are at least 2,500 people living there? In the Theatre Royal, or in the crater, there are probably about 2,500 rats living there. When the Minister signed the agreement with the owners, he stated and I quote: *"We sincerely appreciate the genuine efforts made by the owners of the Theatre Royal to reach an agreement with the 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 our Cultural Heritage"*. The saddest thing about the Theatre Royal is that it has now lost its heritage value and what we have to show for it is the crater. The problem now with what is left is that it is also affecting adjacent buildings. It is incredible that in order to cover up their deficiency, this GSD government would even try to mislead this House into first thinking that anyone who passes by the crater in City Mill Lane, will not be able to see that pins (as they are called by the construction industry) that is, planks of wood fixed to the adjacent buildings to hold them up, has not been caused by the demolition works. We have even had property owners of buildings around the hole

concerned at the fact that their property could well be affected in the near future. Let us hope that Government do not end up having to pay property owners compensation for damages to their property. So, at least for the moment, let us keep our fingers crossed. All this is happening because this GSD Government had the vision but unfortunately did not do their homework properly as has been demonstrated via the questions I have been asking in this House on the Theatre Royal. In my budget address last year I demonstrated how there has been a lack of planning and how the Theatre Royal, even if completed, is a total waste of taxpayer's money since it will not be a feasible enterprise anyway.

Definitely the legacy of this GSD Government, and in particular for the previous Minister for Culture and for the current Chief Minister, will be the disaster of the Theatre Royal. This vision thing has now turned to be a nightmare. This must be the worst case of squandering taxpayer's money in Gibraltar's history. Not only have we already spent the staggering amount of £4 million on a crater in City Mill Lane, but it also has left with it a running cost of £66,000 as is reflected in this year's estimates, plus other costs to keep the place safe. In my last question in this House on the Theatre Royal the Government had spent more than £100,000 last year just to maintain the crater. This is the same Chief Minister that is calling on all his Ministers and heads of department to restrain spending and to maintain budgetary discipline. Is this the prudent, sound economic policy of the GSD? Does this sort of financial disaster equate to what we hear from the Chief Minister that public finances are not in a mess?

In conclusion, this GSD Government have mishandled and mismanaged public funds to the extent that it is now affecting the Education of our children, where training is not analysed to show what training we require for our young people. We have a youth service which closes its youth clubs two times a week depriving our youth of this facility. As I mentioned before, we have more and more cases in our courts involving juvenile delinquents. But, we still have the crater in City Mill Lane with

running costs, which is increasing annually. This is the sound and prudent economics of the Chief Minister.

HON F VINET:

Mr Speaker, my responsibilities can be summarised as follows:

1. The Environment;
2. Technical Services Department;
3. Roads and Transport;
4. The Electricity Authority;
5. Gibtelecom; and
6. AquaGib.

It is in this order that I will refer to those responsibilities.

Department of the Environment

The Department of the Environment continues to be actively involved in the transposition and implementation of EU directives in the field of the environment, an area in which the quantity of EU legislative measures can be regarded as overwhelming. The resources of the Department have been very substantially enhanced during the year so as to enable it to better deal with this challenge. To this effect, we have recently employed an Environmental Specialist who provides much welcome in-house expertise and who is already actively working on the transposition of directives and the putting into place of systems to manage the requirements of such directives. The increased manpower of the Department and the greater specialisation now contained within, will enable it to become more pro-active.

This pro-active approach has been evident recently, when the Ministry and Department of the Environment celebrated World Environment Day for the first time ever. Apart from a wide-ranging ministerial statement, the event was commemorated with a tree-planting ceremony at the Gibraltar Botanic Gardens and poster-painting competition and exhibition that witnessed the participation of 200 school children of all ages. Despite the limited and in some instances non-existent media coverage afforded, these events proved to be extremely successful in raising awareness of environmental issues. World Environment Day will now be celebrated on an annual basis and I am confident that next year's events will be even bigger and better.

Two air quality monitoring stations have been acquired and commissioned during the course of the year. A dedicated website for the public dissemination of monitoring information was launched, allowing the general public to view continuous updates of air quality, together with meteorological data and information on the health effects of pollutants. The website is, I believe, groundbreaking locally in terms of the detailed information it contains and the speed at which that information is updated, and I am happy to report that the feedback received from the general public and environmentalists has been extremely positive.

Equally positive has been the feedback on the monitoring programme as a whole. The fact is that legal compliance could be achieved with the provision of these two monitoring stations in an area with a population of 250,000. Gibraltar can therefore be considered as being very well monitored. Indeed, it is doubtful whether there will be many (if indeed any) places that exceed this level of coverage, whether compared on a per capita or land area basis. The purchase and maintenance of the extensive state-of-the-art equipment represents a significant financial investment and honours the GSD's manifesto commitment in this field.

I now move on to the local Environmental Charter. Twelve months ago I informed this House that I was hopeful it would be published within the financial year that recently ended. This has unfortunately not been possible, but a significant amount of work has been undertaken internally within the Department of the Environment on the large volume of supporting documentation that will potentially accompany the Charter itself. I regret that we have not been able to progress as rapidly as we had hoped and that the project has experienced a minor delay of a few months, but I am pleased to report that the formal consultation programme with an extremely wide spectrum of pertinent governmental bodies, non-governmental associations, groups and individuals, as per our manifesto commitment, has commenced. The whole process will be completed before the end of this calendar year.

I turn to another manifesto commitment, namely the publication of an Annual Environmental Report similar to the Gibraltar Health Authority Annual Reports that have been published since 1998. The Department of the Environment is presently compiling the relevant information and the inaugural edition of the Annual Environmental Report will be published early in 2006.

The Water Framework Directive has been transposed and work continues in identifying how best to prepare the system that will allow monitoring of the quality of all our waters and assist in the preparation of a plan for its future improvement.

A waste study will shortly also be commissioned. This study will generate data on the various types and quantities of waste produced locally. This data will not only permit us to up-date Gibraltar's Waste Management Plan, but will also allow future predictions to be made, thereby enabling us to better and more rapidly respond to (and comply with) likely future EU requirements in this area. The data – I ought to add - will also be used in connection with the design of our new refuse incinerator.

The tender for the disposal of items containing substances that deplete the ozone layer – refrigeration equipment, fire extinguishers and other such like equipment – has been awarded and the removal of stored equipment will shortly commence. Measures for the disposal of waste electrical and electronic equipment are also currently being looked into and we envisage that facilities to deal with these will be set up during the course of the year. The tender for the disposal of end-of-life vehicles is also shortly to be awarded.

A number of current contracts relating to planted areas, including the Botanical Gardens, the cleansing services and the maintenance of parks and playgrounds, together with those affecting our fauna and pets, have expired or are shortly to expire. Government are revising and updating all these contracts, not only to improve on the services to be offered, in keeping with updated requirements, but also to take into account new technologies and methods. The renewal of such contracts commenced last year and will continue during the course of the current year.

In compliance with the requirements of the Assessment and Management of Environmental Noise Directive, a number of traffic counters have been acquired and these will be placed along Gibraltar's main road artery, namely Winston Churchill Avenue. These counters will generate the required data so as to enable us to better assess our situation, thereby establishing the level of our obligation and resulting commitment in this respect.

It is a privilege for me to announce that during this coming year, work will commence on the beautification of the North Front Cemetery. This extensive, all-embracing project has been divided into a number of areas with works to be undertaken to the boundary walls, existing paths, junctions and to general areas. Footpaths will be resurfaced using a paving block system capable of reinstatement without causing permanent damage to the finish. A number of hard landscaping features will be introduced at the junctions and the present toilet block will also

be refurbished. General planting to existing and new flowerbeds will also be carried out throughout the cemetery, and benches and shaded areas will be provided. This being a project that I have taken a great deal of personal interest in, I am particularly happy and proud to announce that it will deliver a more dignified resting place for our loved ones as well as more attractive and comfortable surroundings for relatives and friends to visit.

Government remain fully committed to the preservation, protection and improvement of our environment, the protection of human health and the prudent and rational use of our resources. In this context, we have to acknowledge the support, advice and assistance that we receive from a number of organisations, groups and individuals that carry out important work in this field. I would therefore like to take this opportunity to thank them all for the invaluable support they provide.

Technical Services Department

The Technical Services Department has been involved in the design and/or project management of a number of construction projects during the past Financial Year. The following are the major ones, some of which have been completed during the past year:

1. Construction of the administration centre building and spectator stand at the new sports complex at Bayside;
2. Waterproofing of the podium at Sir William Jackson Grove;
3. Relocation of the MOD's MSG unit from Coaling Island to Gun Wharf;
4. Watersports centre building at the new sports complex;
5. New canopy at the land frontier.

Following on from the completion of the John Mackintosh Square project, the City Centre beautification works continued

along the southern end of Irish Town. This project has served to complete the pedestrianisation link between Irish Town and the Square with the whole area now being free from traffic. It has further enhanced the use and enjoyment of this much-improved open space in the centre of town.

The Highways Section, apart from its on-going minor road maintenance work, has continued to be involved with improvements to the highways infrastructure relating to the bus service. A new bus stop has been constructed at Europort and works carried out to existing bus stops situated at Trafalgar Road and Line Wall Road to improve the flow of traffic. Further works are planned for the coming year to continue achieving this.

The Department's programme of highway works for the coming year will see an extensive road maintenance programme being undertaken which will include the resurfacing of a number of roads. A scheme to embellish Engineer's Lane will also be started as well as the first phase of the repairs and beautification of the Europa Road parapet walls and footpaths. Also, the temporary roundabouts at the Line Wall Road/Casemates Hill junction and at the southern end of Winston Churchill Avenue by the entrance to Laguna Estate have been shown to work well and so permanent roundabouts will be constructed.

With regard to works relating to the sewer and storm drain systems, the Department has during the past year undertaken the relaying of collapsed sewers and reconstruction of manholes at Turnbull's Lane and Devil's Tower Road, as well as repairs to a collapsed culvert at the northern end of Queensway. Improvement works to the stormwater drainage systems have also been carried out at New Mole Parade, South Pavilion Road, Mount Road and Witham's Road. As part of its programme for the cleaning of sewers, the Department desilted and flushed the system at the North Mole as well as the pits at Laguna Estate, Devil's Tower Road and the South District. Inspections and surveys were completed of the main Westside area stormwater

culverts and the Devil's Tower Road, Casemates and Cooperage Lane sewers in anticipation of works to be undertaken this year.

Major works have also been carried out in the area of Cathedral Square to improve the existing drainage system. This has involved separating the existing combined sewer and storm drain by laying a new run from the area of Bomb House Lane up to Line Wall Road.

The Department also acted as technical advisors to the Department of Trade, Industry and Communications on the project for the creation of a new small boats marina at Coaling Island that has been on-going during the past year with completion programmed shortly. Allied to this project has been the relocation of the MOD facilities from Coaling Island to the Gun Wharf area in which the Department has also been heavily involved. The works have now been completed and the transfer effected.

During the coming year, Technical Services will continue to be involved with design and project management work on a number of major schemes, such as the proposed new car parking facility at Sandpits and the planned multi-storey car park at Willis's Road. These schemes will provide much needed parking in these areas.

Transport

I will now turn to the Department of Transport, another Department that falls within my portfolio.

The House will recall that last year I mentioned that the Department had moved to Eastern Beach Road, thus creating a one-stop service and in turn providing a faster, enhanced and more convenient service to the public. In an effort to improve its service delivery, I am pleased to say that the Department is embracing modern technology and it now has a dedicated page

within the Government's website. This page offers information and advice on the services that are offered by this department and additionally it offers the public the ability to download application forms, for example, to take a driving test or to book an MOT test. This obviously saves a person a visit to the Department of Transport, although the aim is to make the online facility more interactive. The general public can book an appointment through the post or, of course, if that continues to be their preference, attend in person to book the service required.

As we know, last year witnessed the introduction of a new bus service by the Gibraltar Bus Company Ltd, a private company wholly owned by Government. I think it almost goes without saying that the present service is not only a vast improvement on what existed previously, but is in fact better to the point of being virtually unrecognisable. The new bus service has now been used by the public for well over a year and we continue to receive very positive feedback, as well as some helpful suggestions to further improve the service. The public is understandably pleased to be able to make use of modern, attractive, comfortable vehicles that are air-conditioned, offer adequate seating, low floors and ramps that allow persons on wheelchairs to board or disembark comfortably, together with numerous other features that have never before been seen on our buses. Passenger numbers continue to increase and purely by way of example, 104,414 passengers travelled on Gibraltar Bus Company buses during May 2004. Last month, May 2005, witnessed passenger numbers increasing to 118,747, an increase of over 14,300. I should say an increase of 14,300 in respect of a month which itself witnessed a very considerable increase on the previous year's figures. The usual seasonal trends dictate that higher peaks will be experienced during July and August.

The last financial year also saw the start of a free bus service for school children. Despite instances of misbehaviour by a minority of children (something that both the Company and Government take a very serious view of), on the whole this has proved to be

a tremendous success and has been hugely welcomed by pupils and parents alike.

However, Government do not intend to rest on their laurels. We will strive to further improve our public bus service, notwithstanding that this is a success story that Government are already rightly proud of.

We are also proud of the way in which we are tackling the number of abandoned vehicles on our streets. The Department of Transport, with the assistance of the Royal Gibraltar Police, has undertaken a campaign to remove derelict vehicles from our highways. I am pleased to inform the House that almost 1,000 vehicles have already been removed and disposed of only in the last year. There is a strong Government commitment to continue with this effort and we have recently procured two new tow-away vehicles to assist in this campaign. Derelict vehicles do not only represent an eyesore and therefore damage our physical environment, but they also take up valuable parking spaces. To remove over 950 derelict vehicles therefore means the freeing-up of hundreds of parking spaces that could otherwise not be used. Of course, Government continue to look at ways in which to provide further parking, as they did at Commonwealth Parade and Landport Ditch among other locations. Several options are presently under active consideration, in particular in the South District and Upper Town, including those referred to during my contributions in respect of the Technical Services Department, namely new facilities at Sandpits and a multi-storey car park at Willis's Road. There is a need for more parking spaces in Gibraltar and that need will be addressed, but we should not lose sight of one inescapable fact, that no number of politically-motivated letters to newspaper editors can contradict: namely, that this Government have done more to provide free parking than any previous administration that at least I can remember.

Government also continue to pursue their aims to ensure that the general public is provided with greater information on road works and closures. Unfortunately, there are times when road closures are simply inevitable, but by implementing an

integrated road works programme, the Government will co-ordinate such works and ensure that these are kept to a minimum and the general public is inconvenienced as little as possible.

The Department of Transport closely monitors European Union legislation to ensure that Gibraltar complies with its obligations. To this end, Government have this year introduced a harmonised vehicle registration document (logbook). This document is being issued to new vehicles that are registered after the implementation date of June 2004. The document is of a common format throughout Europe and incorporates various security features that include, by way of example, watermarks and fluorescent fibres woven into the paper. Gibraltar has been at the forefront of this initiative and the new registration document has been introduced locally in advance of countries like Germany or Spain. The Department continues to maintain constant communication with its European counterparts to ensure that Gibraltar remains at the forefront of developments.

The Department of Transport also maintains close links with other licensing authorities within Europe. It is an integral member of EUCARIS, which is a pan-European association of licensing authorities aimed at combating car crime. The EUCARIS executive board meets on an annual basis and Gibraltar attends these meetings of its own right. Close links are also maintained with other EU bodies in the field of road transport and participates fully in the free exchange of information.

Finally, on the question of Transport, I would like to take this opportunity to thank members of the Transport and Traffic Commissions, who generously give of their time voluntarily. I cannot stress enough my gratitude for their invaluable assistance.

Community Projects

I will now turn to the three Utilities, but before doing so – and like last year – I would like to thank the management and workforce of Gibraltar Community Projects Limited whose work on occasions goes unrecognised.

Electricity Authority

If I can start with the Electricity Authority, the last financial year saw electricity demand break all records both for the summer and winter seasons. The high temperatures and the increasing popularity of cooling air conditioning resulted in a peak demand of 26,100 kilowatts and energy consumption of 421, 440 kilowatt-hours on the 26 July 2004. By way of contrast, the low temperatures and the use of heating appliances meant that on the 27 January 2005, the peak demand reached an all time high of 29,600 kilowatts and an energy consumption of 476, 480 kilowatt-hours.

The total units of energy generated by Waterport Power Station and purchased from OESCO reached an all time high of 140.79 million units, nett units to the distribution system totalling 137.12 million units, representing a 6 per cent increase over last year. Units billed to consumers totalled 133.43 million, and the amount collected was £12,061,000. Total outstanding debt stood at £7,731,000. The number of consumers reached 15,833.

An additional 5-megawatt generator is in the process of undergoing final installation works at the OESCO power station and I am informed it should be ready for commissioning within a month.

A new power station, distribution cable networks and controls are presently at the design stage with a view to meeting increased demand from the Eastside Development as well as increased demand more generally.

As the Chief Minister already referred to in his opening speech, fuel prices continue to increase and, needless to say, this has a direct impact on generation costs and has been a major factor in the revision of tariffs that came into effect with the accounting period including the 1 April 2005.

The Financial and Administration team has been strengthened with the recruitment of three employees qualified in accountancy. They have joined at a time when the Authority has commenced the implementation of a new disconnection policy aimed at the recovery of debt. The computerisation of accounts will be one of the tasks high on the agenda.

The Electricity Authority embarked on a major programme of in-house works aimed at the replacement of the 6,600 volts network in the old part of town and the transfer, from Kings Bastion, of the 11,000 volts feeders to Orange Bastion Distribution Centre, thus allowing the decommissioning of the high voltage switchgear until now still in use at Kings Bastion.

Requests from the general public, contractors, developers et cetera for works by the Electricity Authority show no sign of abating and the Authority is involved in all works, large and small, taking place in Gibraltar.

Gibtelecom

If I can now refer to Gibtelecom, which continued with its ambitious programme to restructure and refocus the business following the integration of GNC and Gibtel, allowing the Company to be in a better position to meet the challenges ahead. All the staff have now been transferred to the employment of Gibtelecom, and new integrated pay and conditions were introduced last year. The new agreement with the Union has modernised job descriptions and working practices and streamlined the workings of the Company, better positioning it to move forward in an advancing technological

world. Consequently, Gibtel has now ceased trading and all its assets and liabilities were transferred to the parent Company, Gibtelecom. On behalf of the Board of the Company, I would like to pay tribute for the years of dedicated service to those 19 staff who took early retirement as part of this restructuring, together with those other staff who left the business during the course of last year.

As I mentioned in my speech last year, the shortage of numbers, consequent to Spain's non-recognition of Gibraltar's '350' code, continues to impact on both Gibtelecom and Gibraltar more generally. Mobile services - both prepaid and post-paid - continue to be offered via a numbering shadowing module which reduces their accessibility from Spanish fixed lines. There are currently 40 customers on the waiting list for the full post-paid mobile service. With regards to fixed line services the Company continues to stretch its number supply primarily through the introduction of the internet "OnLine" service that does not require a telephone number. In other words, it is a dedicated internet-only line. Additionally, the Company is investing in less "number-hungry" PBX systems, based on Internet Protocol technology, which is helping prolong the number supply.

Gibtelecom is awaiting a date for the hearing regarding the Company's application, lodged with the Court of First Instance of the European Communities, against the EU Commission relating to the impossibility of the Company's mobile customers to roam in Spain (known as the Roaming complaint).

The separate complaint, concerning the unavailability of telephone numbers due to Spain's non-recognition of the '350' code (the numbering complaint) was lodged with the Court of First Instance in Luxembourg last September. Gibtelecom is awaiting a date for this hearing too.

The Court on both cases has in the meantime been receiving various submissions and rejoinders from Gibtelecom and the EU Commission.

Gibraltar Government officials, the Gibraltar Regulatory Authority and the British and Spanish Governments have commenced discussing telecommunications matters, including numbering, under the new tripartite forum. The Chief Minister recently informed the House that the Government's preferred option for resolving the numbering issue is a 00 44 solution for calls from Spain to Gibraltar, on an interim basis I ought to add.

The turnover of the Gibtelecom Group in the calendar year 2004 rose to over £24 million, an increase of nearly 9 per cent over the previous year. This growth has helped the Company to continue to make substantial payments into the two Pension Funds to cover past service liability deficits and the increased cost of providing good pensions going forward. The dividends received of £2.6 million, shown in the Government's Estimates, reflect the final dividend of £1.3 million for the financial year 2003 and an interim dividend for 2004 of £1.3 million. A final dividend of £1.1 million for 2004 has been provisionally declared by the Board.

The Company continues to make substantial investments in enhancing its telecommunications infrastructure, which is now also being utilised by an increasing number of competitors carrying international traffic or offering IP services. The Group's capital investment of some £3.5 million in 2004 included enhancing network resilience for both voice and IP traffic, increasing the availability of leased bandwidth on demand and upgrading Switches, computer systems and cable networks. The Company invested further in equipment to fully protect its e-business customers from Distributed Denial of Service (DDOS) attacks by unscrupulous extortionists seeking to obtain ransom payments.

The General Packet Radio Service ("GPRS" service), deploying 2.5G technology, was launched commercially towards the end of last year. Roaming agreements with other operators are being finalised to enable the service to be used overseas. This will enable data and images to be transferred worldwide at high speeds.

At the turn of the year, Government were disappointed to learn of the ADSL problems being experienced by Gibtelecom. The Company informed its customers that the problems were particularly complex to resolve, and involved several internet suppliers and software engineers having to work on line from different parts of the world with Gibtelecom's own engineers. The Company is confident it has now put these difficulties behind them, and the network has been stable over recent months. Following the Telecommunications Ordinance 2000, Gibtelecom has developed its Customer Service Level Agreements which provided in such circumstances for credits to be given on the ADSL rental.

The main operational challenge facing Gibtelecom going forward is the creation of a centralised 24/7 Network Operations Centre, which involves technological challenges and an increased number of people moving to round the clock shift work. There is some resistance to this change, but it is a direction the Company has little, if any, choice to go down due to the 24/7 nature of the growing gaming and e-commerce businesses located in Gibraltar.

Finally, on the question of company premises, planning and building permission for Gibtelecom's new premises at 13/21 John Mackintosh Square was obtained from the DPC towards the end of last year, and initial construction works are expected to get underway shortly. It is planned that the new building will be in service by 2007. The façade of this new building has been specifically designed to blend in with the surroundings, thereby embellishing even further the recently refurbished Square.

Gibtelecom's Customer Services Centre at 60 Main Street closed recently due to the expiry of the lease and has been relocated to the Customer Services Centre at Europort which now also houses the Sales & Marketing team. Customers have been taking advantage of the "Account on line" service introduced last May which enables them to review their telephone call lists and pay their telephone bills over the internet securely.

The Company also relocated the Engineering and External Plant sections from their base at Europort to newly refurbished accommodation at New Harbours. This has released valuable office space to one of the e-Gaming companies, who now employ over 100 people in Gibraltar. Further rationalisation of Gibtelecom's premises is envisaged going forward, consequent to the completion of the new building.

AquaGib

Last but by no means least, I address this House as to the other utility company I chair, namely AquaGib. During the last financial year a total of 1.22 million cubic metres of potable water were supplied. AquaGib pumped a total of 3.37 million cubic metres of seawater to the various seawater reservoirs. 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.

Potable water tariffs to consumers had not been increased since 1986. Other prices and peoples' income have nevertheless significantly increased since then. This was possible by the Company creating efficiencies in the production of water and delivery of the service, as well as by the Government offsetting some of the costs of making a contribution in lieu of allowing contractual increases, effectively subsidising consumers. Gibraltar does not have natural water resources and meets its water needs by desalination. Desalination is an expensive process heavily reliant on energy and fuel. Oil prices have increased from \$28 per barrel in October 2003 to \$53.42 per barrel in April 2005, representing an increase of over 90 per cent. There have also been increases in operating costs arising from the requirements of new EU Directives aimed at improving the environment. Clearly a situation of no increases in the price of potable water, in the face of continuing increases in the costs of materials at source, is simply not sustainable. Under the Licence Agreement regulating the provision of water services to

Gibraltar, AquaGib applies to customers those tariffs that are set out in the Public Health Ordinance. As we know tariffs to units consumed and scheduled to be billed for during the accounting period including 1st April 2005 and thereafter have recently been increased. These increases go partly towards reducing the Contribution in lieu of Tariff increase paid by the Government and partly to meet the increases in costs met by AquaGib.

As hon Members will no doubt recall, an industrial dispute arose in February 2005 leading to strike action taken by AquaGib employees below the rank of Superintendents. The strike commenced on the 9th February 2005. Customers at five blocks at Alameda Estate and Merlot House at Vineyards Estate had their potable water interrupted as a result of burst pipes that could not be attended to as normal. The company distributed bottled water to the households affected until repairs were carried out.

On 16 February 2005, at the request of the strikers, the Chief Minister met a delegation and a Union officer. The result of the meeting was a proposal that the workforce would lift the industrial action and resume normal work, and the Chief Minister would mediate in the dispute, over a 30-day period. Employees returned to work on 18 February.

The results of the mediation agreed to by both parties was made public at the time and I will therefore not detail once again what has already been well reported in the media. I will finish by saying that a programme for negotiations has been agreed between the Company and the TGWU with the aim of reaching a settlement before September 2005.

That concludes my address as to the various elements of my ministerial responsibility. Before finalising this contribution, however, and in accordance with normal practice, I would like to express my most genuine gratitude to all those ladies and gentlemen who make up the Ministry and who form part of the respective Government departments. The fact is that their loyal support is invaluable in ensuring the delivery of the

Government's programme and commitments. My thanks also go out 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, although this is your first debate as Speaker, it is known that this is the time when we debate more than just these Estimates but the state of our nation generally. Last year when I commenced my first contribution in this type of debate I reminded the House of the words of Prime Minister Gladstone in his essay, Advice on Finance, of 1958 and I will refer to that again. In that work, that Prime Minister had said that finance is, as it were, the stomach of the country from which all other organs take tone. Well, despite the placebos offered to our people in the speeches of Government Ministers, I must say that the country's stomach is far from full. In fact, it is also little comfort to hear the Chief Minister make statements of the marvellous economy over which he pretends to preside, given what little credibility must unfortunately attach to any of the statements which he makes. Those two issues, first, the present state of our public finances, and secondly, the lack of credibility of the Chief Minister's own remarks, are the themes that will run through my address in this House today. They must go together if we are to assess how much store we can put by the intervention he made yesterday on the state of our economy. In addressing these themes, I will refer to each of the Heads of Expenditure that relate to the Ministerial portfolios which I shadow, namely those of financial services, employment, the environment, the media and industrial relations.

I will touch also on issues which relate to law and order, which I consider to be of paramount importance in civil society, but I make no apology that I will have to stray into other areas, also in order to fully address the concerns that I have about the direction in which our public finances are being steered and the stimulation which is lacking in our economy. Overwhelmingly,

we must not lose sight of where the real importance of this debate lies. Whether we sit on the Opposition or Government side of the House, I believe that all Elected Members share a common economic goal. That is to see Gibraltar's economy as self sufficient. Why? Because that is one of the essential characteristics of the reality of the exercise of the right to self determination. If we want politically to stand on our own two feet, then we must also stand on our own two feet economically. It is for that reason that it is right that this House should scrutinise every penny that is to be spent and seek to ensure that there is no waste of public funds, because it is with our political future that we are gambling if we fail to maintain the self sufficiency attained during the course of the first Socialist administration. It is also right to set this year's debate in the context of where we were last year.

The Appropriation Bill before the House last year sought an appropriation of £170 million. That included some supplementary expenditure for the year before. We in the Opposition complained that there should in fact have been two Bills last year instead of one. The Chief Minister defended the decision last year to bring one Bill and insisted that it was proper to seek the Supplementary Appropriation in that way. Of course, it was not right to do so as the House was then required to vote only in favour or against the whole of the Bill, even if we were against aspects of the supplementary provision. This year, the procedure has reverted to the correct process of seeking two separate appropriations. I am glad that the Government have accepted this, although the Chief Minister does not accept that the procedure followed last year was wrong.

In his reply to me last year, the Chief Minister accused me of having told this House lie upon lie. It is not Parliamentary language but he used it, it is there on page 214 of the Hansard of last year's debate. He made numerous references to cartoon characters and failed distinctly in that way to address the substance of the criticism of his economic policies which my colleagues and I referred to him. This year, I will show this House by reference to documents and the Chief Minister's own

words, that it is actually his credibility that is suspect. I will provide the House with references to the exact places where the Chief Minister's statements have failed to represent reality. In replying to this detailed breakdown of the times which I will show when he has either misled our people or not been able to comply with his political commitments, perhaps the Chief Minister could this year avoid throwing all the toys out of his pram and deal with the substance of the critique we make of his economics and his credibility.

I will start on the issue of the credibility of the Chief Minister. I have gone through his New Year messages since 2001, and analysed his key commitments to see whether we can actually take him at his word. Of course, he has been elected after 2001 despite these things, but let us go forensically through them. First of all let us look at the question of the cost of repairing Harbour Views. He told us yesterday that the £3 million cost of the Theatre Royal project to date was one eighth the cost of fixing the problems at Harbour Views. Subsequently, he referred to having to make bonfires of taxpayers money to match that loss as if taxpayers had paid it, but in his New Year's message of 2001, at paragraph 15, he said "during 2000, Government were able to finally extract a huge settlement of £24.5 million from the Spanish builders of Harbour Views". The Chief Minister will remember that a moment ago they were going on about Harbour Views and how that had cost the Government money. Of course, it is only true to say that the Spanish developers paid that money not the Government, so his statement yesterday and the reference to it in today's Chronicle reporting on that is not credible.

Mr Speaker, I have given you a copy of the Chief Minister's New Year message with a bundle of documents so that you can see the evidence for yourself. It is at tab 1 of the bundle I have given, the paragraph is paragraph 15. Last night on Viewpoint, Mr Caruana added this: "we are still paying out taxpayers money for rushed jobs done in the past. One example is Harbour Views". That is verbatim. Well, it is not true, as he said himself in his New Year's message of 2001, the remedial works

at Harbour Views were paid for by the Spanish developer not the taxpayer. But let us look at some more statements from the Chief Minister which show that he is not credible. At paragraph 17 of the same New Year's message, the remarks he made about housing are relevant. In the last sentence of that paragraph he said that one of the ambitious projects that he was launching that year, 2001, was the launch of various new housing schemes by Government to ensure the availability of low cost, reliable, quality housing at affordable prices. Of course, as we all know, it did not happen. If the Chief Minister were a witness of fact in legal proceedings, I put it that in just both those both instances he would be somewhat sceptically regarded by the jury in any further evidence of fact that he gave. Let us look now at another instance. In his New Year's message of 2002, that is the next tab in the bundle, one year later, that year his message was dominated by foreign affairs – rightly so, but he also said two things worthy of note. At paragraph 10 he said, "this year, 2002, we will also be making a start on the Youth Leisure Centre at King's Bastion". Well, nothing happened that year, the year after that, the year after that, or the year after that or to date. Another statement from the lips of the Chief Minister which has turned out to be unreliable.

At paragraph 12 he referred to the Theatre Royal, which he described "as the GSD's major cultural project, a beautiful theatre at the Theatre Royal". He said of that, and of the conversion of Europort into a hospital, this quote, "both these major facilities are scheduled to be ready in late 2003". I did not say this, these are the words of the Chief Minister, well, neither were ready by late 2003. The Theatre Royal is now frozen in splendid Baghdad crater style isolation in the centre of town. Again, therefore, in his speech of New Year 2002, another unreliable statement from the lips of the Leader of this House. The following year, in his New Year message of 2003, that is tab 3 of the bundle, look at what the Chief Minister said about housing. At paragraph 39 he said, "the tendering procedure for the construction of new rental, home ownership and senior citizens housing is well under way, and construction will start in

the spring. Houses will be ready for occupation in two years". In the spring of 2003. Well, there was no tendering procedure commenced, construction did not start in spring and in 2005 there are no houses built. In fact spring ended two days ago. Again, if the houses were almost finished, one might say it is construction slippage but they have not even been started. Another unreliable statement from the lips of the Chief Minister.

Let us see how the issue developed and the statements of this very, very unreliable interlocutor. At paragraph 12 of the Chief Minister's New Year message of January 2004 he said this, that is the next tab on the bundle, "we will press the accelerator on those aspects where, although much preparatory work has already been done, the fruits have not yet been delivered". One of those, he went on to say, was the building of new affordable homes. Well, as is known, no new affordable homes were built by the Government in 2004. The credibility of the hon Gentleman can really now be seen for what it is, absolutely zero, but let us give him one more chance and let us update ourselves on the Chief Minister's attitude to the truth in 2005. Look at the New Year's message he gave in January 2005, again, it is paragraph 12 and again it is the next tab on the bundle, where the Chief Minister said this: "later this month the Government receives the construction tender bids for our housing scheme at North Mole". He may very well have received them but listen to the next phrase, "on which construction will therefore start in February". Well, February 2005 came and went, as has March, April, May and now June and again, nothing has happened. The Chief Minister's statements can be seen to be, fortunately, entirely unreliable. I do not think it is good for Gibraltar to have a Chief Minister who says things but then does not do them. If he is unreliable on each of these statements that I have shown in the past five years, then when can we rely on him? When he gave his remarks and his statements yesterday? Why should we believe him if we can show in these six or seven instances that he has said things which are not true or which have not come true? Putting everything he says in that context, it will be seen why it is that I believe it is not prudent to regard him as an interlocutor of truth in any matter on which he addresses us. In

fact, if he tells me that it is one o'clock, I check my watch, but yesterday one thing was said by him which was true. His policy on housing is a failure, because he said after the Election, that he had received a small electoral reprimand on health and housing and that he would take personal care of these portfolios. So therefore, it must be he and not the absent Minister for Housing that has failed on this.

One has to sit here and listen to the Chief Minister tell us that he has reduced people's taxes by 40 per cent. It is there in paragraph 52 of his speech yesterday, which I have put in at tab 6 of that bundle and I have numbered the paragraph so that one can see the exact words of the statement released by the Chief Minister's office to the press yesterday, as if it had been delivered verbatim in this House, which I am sure is what the Hansard will show. Reduced peoples taxes by 40 per cent. Well, it is just a diversion, like everything else he says, it is not worth the paper it is written on or the air into which it is uttered. There has not been a 40 per cent tax cut, but the quote is clear. There is no reference in that line of his speech, in writing or when he delivered it yesterday, to tax rates being cut or anything like that. He said yesterday only this, that he had reduced peoples taxes by 40 per cent, and that also is not true. So, whether the Chief Minister is making statements in this House as to geography, like many years ago when he said that if the Theatre Royal did not have access by road it was not a problem, the Royal Opera House in London did not either. I demonstrated last year in my first budget speech, by looking in and bringing in the A to Z that actually the Royal Opera House in London does have access by road and one can actually park next to it.

Whether he is making statements in new year's messages on the commencement and completion dates for Government housing schemes or leisure centres, or telling this House whether or not he has held a formal consultation process for a new Ombudsman or Ordinance, (I will come onto that later when I deal with financial services), the statements that come from the Chief Minister's mouth are not credible. If he were a witness of

fact in court proceedings, as I have said already, and not a politician in Parliament, I am convinced that he would be facing prosecution for perjury, and that even a barrack room lawyer could convince a jury to convict him. In his reply last year he called me a liar, I will be more temperate and more parliamentary than him, I will simply say that he is without credibility. He says things he does not do, he says things he has done which he has not done and he is therefore not a politician that we as a community can rely on. That will be his enduring political legacy. He has promised much, he has done little. His speeches point to a picture of economic and physical development of our country beyond compare, yet his Government's actions have left our economy bereft of real progress, our people without affordable homes and our society vulnerable to osmosis.

Mr Speaker, I turn now to the substance of these estimates. Suffice to say, that what appears clearly from the estimates is that the Chief Minister is obviously a keen reader of the weekend Financial Times – the magazine section of which is titled "How to Spend It". The problem, is that he is obviously not as keen a reader of any publication which might teach him the alternative, relevant discipline "How to Make it", for there is little by way of new sources of revenue in these estimates. Increased revenue, in fact, will come principally from increased fees and charges and increased cost of utilities for which the GSD did not seek or obtain a mandate at the last election.

Some increases affect businesses in prosperous and burgeoning parts of our economy. Yet some affect us all – every single citizen. They are of indiscriminate effect because we all need water and electricity but some of us can more easily bear the increases. My fear, is that the Government's expenditure has required increases in utilities which will affect the pockets of the elderly and the less well off in a way that will have an indelible effect on their daily lives. All the lavish parties, the flash events in London and elsewhere are now coming home to roost but these costs are borne by all of us – not just by the better off. Although issues which relate to the detail of the

raised utility charges and Government fees will be dealt with by the Hon Mr Randall, I must tell the Chief Minister that these are the concerns that we must all carry in our consciences in the House when analysing these figures. The families and the elderly who are less well off and have to pay the increased charges with great difficulty – especially those who will see their spending affected by it. The families and the young ones who are being forced to live outside Gibraltar – in Spain or who have to stay in the UK for lack of affordable housing in Gibraltar. Those are the citizens who are daily suffering the consequences in reality of the economic decisions, or lack of decisions, by this GSD administration.

I say 'lack of decisions' because so often the problem seems to be that there is a failure by public officers or Ministers to reach decisions, when in fact they are the ones invested with the relevant decision-making power or discretion. Why? Well, because the decisions in this GSD administration can only be made by one man – by the Chief Minister himself. Even then, he, the master of ceremonies, fails sometimes to reach a decision or even acknowledge receipt of documents. See, for example, the Chief Minister's abject failure to even reply or acknowledge a letter from the TEP Plan Association for almost six months something that became very clear in Question Time two or three sessions ago. In fact, getting a decision from the GSD Government is now often as difficult as connecting to Gibtelecom's broadband service, very hard indeed, even after they believed they fixed the problem. No wonder then, that Gibraltar is seen as not being dynamic. The Government, for these same reasons of centralised control moves slowly and inefficiently. All of this must change if our economy is to perform to its full potential. Moving effectively. Having a plan. None of these can be descriptions of the GSD administration and the economic consequences of that are slowly catching up with us.

I want to start addressing as the first head of expenditure to scrutinize spending on "law and order". I am reminded, that it was in dealing with issues of Law and Order and these estimates last year, that the moment came when a vote of

confidence in himself was called by your predecessor. The vote was lost by the Speaker then by the Government majority. I sincerely hope that this Parliament is never again put in a predicament such as it was last year at this time.

Last year, Mr Speaker, the Chief Minister told us that he was concerned at the bulging cost of legal aid and assistance. This had grown from an estimated £500,000 to a massive £1,025,000. The Chief Minister said that the Government intended to take action to reduce this amount and had already initiated consultation with the judiciary in this respect. In fact, this year he seems simply to have given in. The estimate is now no longer for £500,000 it has grown to £1 million and that is a direct charge on the Consolidated Fund. I guess that is one way of "taming" expenditure – by increasing the estimate to the amount repeatedly spent. So much for "budgetary discipline". In fact, I had said last year that I believe this is an area where there is abuse and it must be restrained, but not at the expense of the most worthy cases. Yet so much of these expenses arise either in unworthy claims or applications or as a result of Court time being wasted.

I can tell this House from first hand experience that in legal assistance matrimonial matters many cases are often delayed. Court and lawyer time is often wasted because of the lack of social welfare reports required for the Courts to make informed decisions in family matters. These usually relate to the welfare of children to whom access rights are disputed. In my view, the fact that we have only one part time officer qualified to give social welfare reports, and who is seriously already overstretched is bad for the children and bad for the families involved. But in this debate this issue is also relevant because the constant adjournments and the arguments that ensue are costing the taxpayer a bomb in these increased legal aid and assistance charges. Therefore, apart from being necessary to assist in juvenile and matrimonial matters, I sincerely believe that the employment of a further officer to fulfil this role in the Social Services Department would be a good way of effectively reducing the legal aid and assistance bill that our community

has to meet as a charge on the Consolidated Fund. That is relevant because this is not expenditure that the Chief Minister can simply say 'ah, I am not going to incur', this is a charge on the Consolidated Fund.

Also of relevance both in respect of employment and law and order are issues relating to the cost of administering the Industrial Tribunal. In this respect, I said last year in the course of this debate, that having an ad hoc chairman made it harder to deal with issues quickly as there is the diary of the Tribunal, the Chairman and two lawyers to co-ordinate. The Government have not heeded our call in this respect. I also said, that the Tribunal should have the resources necessary to meet its expanding obligations given the additional responsibility bestowed on it by diverse Ordinances, one of them being the Equal Opportunities Ordinance. This year's estimate shows a recurring estimated expenditure in the region of £4,000 for the Tribunal, which is expected to be exceeded by £10,000 up to £14,000. The estimate for next year, is expected to remain at £4,000. Surely this is a head to keep under review this year also to ensure we are not under-funding a Tribunal that has an increasingly valuable role in the protection of employee's rights.

In particular, moving on with issues of law and order, because I want to come later to issues of employment, I want again to remind the House of my concerns as to rehabilitation of offenders. I spoke on this issue last year and I brought a motion for a bill for a Rehabilitation of Offender's Ordinance to the House earlier this year. I look forward to seeing the Bill the Chief Minister has committed himself to bring to this House this year on this subject in lieu of the one which I presented.

Similarly, I will look forward to seeing the Bill or Bills that may result from the conclusion of the consultation exercise on the implementation of the relevant parts of the Police and Criminal Evidence Act into our law. In answer to questions the Chief Minister has already told the House that the consultation process reported finally to him in October last year, so I expect we will see some draft legislation in this House soon.

I turn now to the Environment. I want to start my contribution on this Head by saying that I believe my namesake, the Hon Mr Vinet, who I shadow, and I, represent a different generation of politician, we are both, I believe, on the same wavelength on the need to ensure protection of our common environment. That does not mean we will not disagree on how best and most efficiently to go about this objective. Having said that, one of the criticisms that I will level at the Chief Minister is the lack of any visible progress there has been in dealing with the ape problem and the rubbish strewn in areas where these animals are attacking the rubbish dumps. On that, I trust we will see the money voted to take action this financial year. The residents of the estates in the north of our city will look forward to seeing this problem dealt with as soon as possible. I also want to say that simply recycling ink cartridges is not a real commitment to recycling. It is a start, and I sincerely hope Government will not just back such initiatives but will also seek to make the Government itself as an institution, a body committed to recycling – leading by example and not simply following the two commercial recycling schemes which are just taking off. For example, do Government source their stationery to ensure that it is recycled. That might be an easy place to start. But it is not just in Government projects and action that the environment is a factor, it is also a factor in the new development projects undertaken by private developers also. Why, I ask the Minister, is there no concession in tax, in the purchase price of land or otherwise to stimulate development with micro generation as part of the development? That is where we need to be going if we are going to play our part in reducing emissions on the planet.

There are also less dramatic steps with the micro generation which can and need to be taken. One of the things we were promised by December 2004 was an environmental charter. This has been promised by the GSD in repeated manifestos, but let us leave the manifestos aside. On 16th December 2003 the Hon Mr Vinet said in a statement that he was initiating consultation with local and environmental groups with a view to concluding the environmental charter in 2004. To date nothing

except consultation and the statement today of regret from the Minister. Well, the statements of regret from the Minister, the statements of accepted failure by the Chief Minister, where are this Government going? I urge the Government Ministers to move on this issue quickly as the charter needs to be in place as soon as possible to have a real effect on developments before the DPC. But perhaps, the draft is not on the Minister's desk. It may also be stuck on the Chief Minister's desk – perhaps the equivalent of the Royal Assent in the modern republic of Gibraltar under President Caruana.

One area of shift in Government policy appears to be that which relates to the reduction of noise pollution in the south district. In a letter to all who signed a petition on noise reduction before the last election, the Hon Mr Britto, then the Minister, committed his party to funding noise reduction works at OESCO. The Minister and I have had a dispute for some time now as to whether he actually sent me the letter as well, although I was a signatory. He insists that he did, I have not yet received it, but we have the best Post Office in Europe, it has only been a year and a half, I am expecting it soon. I can identify no cash in these estimates for that expenditure. I would ask for an explanation from the Chief Minister when he comes to his reply, and after he has cut me up into little pieces, perhaps he could also address the issue of whether in fact that commitment is now released, or whether he will seek to be released from that commitment because of the potential new generating station on the East side. Perhaps we can have some clarity on this issue in the Chief Minister's reply.

What we do have this year are the air quality monitoring stations. At last, after what we were promised year after year, they are now operational. We will have to see what the results show us, it may be that the results require further action which requires further expenditure. We will see where that leads us once we have had the results a sufficiently long period to be able to compare it and analyse it. But on air quality generally, I commend to the Minister for the Environment the policy of funding a study into pollution in the bay and funding an action if

necessary to restrain other polluters, not necessarily Gibraltar in nationality, to ensure that they are restrained from polluting if that is affecting us.

We know after the last Question Time in this House, that we have also a bill coming to us as a community for at least £500,000 for the removal of the now infamous grit mountain at Cammell Laird. All this was actually stated by the Chief Minister in answers to questions in this House. I share the concerns of many in Gibraltar that this mountain of grit should be removed as a matter of urgency. But, we were told by the Chief Minister during the last Question Time that the grit was to be removed at tax payer's expense – not by way of loan to the company that accumulated the waste. We were told that this was because the Chief Minister had seen Cammell Laird's balance sheets and they could not afford to pay it themselves. Well, the accounts of Cammell Laird filed with Companies House, show a profit for the financial year to April 2003 of £181,936. The accounts are at tab 8 of the bundle that I have given. The cost of removal of the grit mountain, which has been there for years now, is not shown as a contingent liability in the accounts. Certainly the grit must be removed and soon, but, one thing that is also very important is that the company must never be allowed to accumulate such a pile again, I mean the mountain of grit and not the profits. I further understand, although I have no evidence in supporting this and perhaps we can be assisted in the Chief Minister's reply, that the grit mountain cannot now be removed to Bulgaria by land as we were told. The mountain appears to have grown and may have to be removed to the UK. I have written to the Chief Minister seeking further information since Question Time, I had a reply from the Minister for Port, Trade and Industry, (perhaps the reply will come in written form rather than from the Chief Minister, but perhaps he can enlighten us further on what the predicted cost of the removal of the mountain will be, where it is to go and how it is now to be removed). One issue that obviously also arises, is whether the £500,000 contribution is fair or whether it upsets the local level playing field that our commercial entities should expect. There are many companies in our economy with difficulties that affect our wider society –

although perhaps not environmentally – will Government assist all, some or none of them with grants of £500,000 if the Chief Minister is allowed to view their balance sheets and they cannot meet their commitments? Make no mistake about it, the grit mountain must go sooner rather than later – but should not Cammell Laird pay back the £500,000 it is going to cost? That is my question to the Government.

I turn now to the portfolio on employment in respect of which I shadow the Hon Dr Linares. Although unemployment is not rising all is not rosy. Let us face it – the figure of an average of 332 unemployed, of which the Minister is so proud is materially identical to the figure for May 1996 when he was elected. I say materially identical because the figure then was 331. So what achievement is he trumpeting? Indeed, he really gave it away when during the course of his address, he gave the figures for 1993 and 1995 but not for 1996. As for the increases in private sector jobs, it would indeed be interesting to see how the increases would be affected if we deducted from it the number of individuals employed in the authorities, as we have been told in this House that those jobs are now counted as private sector jobs. I want this year to address also a number of issues relating to this portfolio which should be of concern to us all on both sides of this House, they are:

Firstly the problems facing the MOD workers. Secondly the constant and static level of national unemployment juxtaposed to the increases in national non-frontier workers; thirdly the slow erosion of workers' rights; fourthly the Government's failure to expand the Equal Opportunities Ordinance to cover the elderly and the disabled; fifthly the absence of legislation on bullying at work; and sixthly, and just to remind the House I cross refer to my contribution to law and order issues, where I have already dealt with the issues that relate to the infrastructure of the Industrial Tribunal.

I will start with the MoD. The overwhelming issue of concern in this regard is the one I have mentioned first, the perverse decision of the Ministry of Defence to go down the route of

contractorisation. That has wide economic consequences which have already been touched upon by both the Chief Minister and the Leader of the Opposition. I endorse the Leader of the Opposition's call for the early publication of the report by Professor Fletcher, which deals with the consequences for our economy of the MoD's proposed action and I recognise the Chief Minister's explanation yesterday as to why that had not happened yet. The consequences of the MOD's proposed action can also have seismic effect on employment in Gibraltar generally, not just on those who will stand to lose out.

First there is a threat of redundancies for some of the parties not proposed to go to the ISP. Secondly, there is the threat of cheap and non-national frontier workers taking jobs now done by locals; and thirdly, there is the risk that this potential further influx of non-national frontier workers will erode working conditions in a myriad of other ways, including, of course, the potential effects on parity.

The Opposition's position is that the MoD's proposed action is entirely unacceptable – with or without consultation. Opposition Members are entirely opposed to the contractorisation of MoD jobs and we stand shoulder to shoulder with the Unions on this issue. We have already said, but I re-state here also, that we therefore back the demonstration which the Unions have called for the 29th June. We call on all Gibraltarians to attend and to give the Union a massive support in its defence of members jobs. On this issue, there can be no shades of grey; no nuances; no middle ground. One is either against contractorisation in the MoD or in favour. We are against.

It is not just in the MoD where workers are under attack. It is very easy to have full employment on conditions that are unfavourable to workers or Third World. Neither side of the House would want to see full employment in Gibraltar on that basis. That is why we have to be vigilant to ensure that in the call centres in the hotels and other places of work we do not allow an erosion of hard fought rights. We in the Opposition are hearing constantly of employers barring employees from being

members of the unions. That is not a criticism of this Government but of some employers. This morning we hear the news of a hotel having perhaps tried to stop employees from taking industrial action under threat of dismissal. Totally unacceptable. In order to assist employees to know their rights it may be time for the Employment Service to provide every person in respect of whom a contract of employment is registered with a list of their rights as an employee and as a member of a trade union under Gibraltar law so that the employer can not persuade them that they do not have rights which they do have in law. I sincerely believe that this would really help to stop the slow erosion of workers rights that may be something for the Conditions of Employment Board's next meeting.

Indeed, although Government Ministers often scoff when we refer to the issue of local jobs being taken by non-national frontier workers, this is now a reality for many in our community and I raise it because it is fair also to say that frontier workers have rights too, and as trade union members they must also have the right to take industrial action. All workers registered in Gibraltar must know what their rights are. No employer must be allowed to persuade employees who are in the job market not to register or that they do not have rights et cetera.

Having said that, those who are Gibraltar on the unemployment register can take no comfort from seeing that even in some Government bodies funded by this House, there is a majority of non-national frontier workers. Look for example at the Elderly Care Agency. They are not just employed in professional or quasi-professional jobs. Many of them are employed doing unskilled work which could have gone to nationals registered as unemployed. It is trite that the Elderly Care Agency is now responsible for the employment of a large number of individuals at Mount Alvernia, the majority of which, I understand, are non-nationals. Perhaps the Chief Minister can give us further details on that and put our minds at rest. So much then for the Government being against employers taking in cheap labour where there is a Gibraltar available to do the

job. Despite the obligations on us under the Treaty of Rome, surely when the Government are the employer, they can be a little bit more proactive in protecting Gibraltarians.

Indeed, there is also a similar problem affecting even summer jobs. Another entity which is funded by this House but which is not a Government entity is Master Cleaners or Master Services. That company is preferring applications from non-national frontier workers, even for casual summer jobs, which in my time were a student's dream to earn a little extra money in the summer months. Indeed, the Minister's suggestion that we should ignore the impact of frontier workers is, I am sorry to say, unbelievable. The Minister is saying we should put our heads in the sand and that to suggest the opposite is demagoguery. Nothing could be further from the truth, but I am left thinking whether Dr Linares perhaps considers himself to be the Minister for Employment for the Campo as well as Gibraltar. Well, let us be clear, I am the employment shadow Minister for Gibraltar, and I will look out always first and foremost for the interests of Gibraltarians and I am not afraid to say so.

Also of importance, is the Government's failure to have done anything yet, or at least to have announced anything until today or any progress yet on the extension of the protection afforded by the Equal Opportunities Ordinance to the elderly and the disabled. There is no good reason for delaying this any further. There is an obligation to transpose the rules as part of a directive within two years so why not do it now? Why allow people to discriminate against the elderly and disabled on grounds they can no longer discriminate against other minorities? I urge the Government to ensure that the drafting process which the Minister referred to earlier today, is completed as quickly as possible so that they can bring the necessary legislation on this to this House also as soon as possible.

I want also to record with appreciation, the method for exchange of information which I have agreed with the Minister for

Employment by which he quarterly provides me with answers to the questions I would otherwise ask orally at Question Time. We have thereby reduced the burden on this House to hear us exchange purely statistical information by oral question and answer. Mr Speaker has agreed, for which I am also grateful, to record both the questions and the answers for the public record in a Hansard of Written Questions. That is indeed a welcome development.

I am sorry, that we have heard nothing however, from the Minister on proposed legislation to control bullying at work. I know there is an initiative from one individual in this respect which has been widely circulated. It should not be ignored by Government. Instead it should be seen as a welcome initiative and consulted on widely with unions and employers representatives, as well as what one often hears referred to by the Government as “the other social partners”

I want to say something also on the related topic of Industrial Relations where I shadow the Chief Minister. I have already referred to the MoD issues and now I want to concentrate on the Government as an employer. There, this year has again been characterised by the inelegance of the Chief Minister’s style. Whether he is telling the Fireman to “take it or leave it” or others are told to wait for months for answers to claims, it is just that the Chief Minister does not seem to know how do it any other way. As an employer his style in negotiations seems to be to antagonise. That creates tensions in the whole which affect the whole of our community. In that, and in so much else, a change of style would go a long way.

It is also important I think at this stage, to highlight that we in this House are now up to date with Hansard. Congratulations must go to the staff of the House who have made this possible. But in the middle to long term, as I said in past years or last year, I would like to see live proceedings of this House televised and a simultaneous transcript of Hansard available for each Member. That is no longer science fiction, but the way in which

the Scottish Parliament works and a system adopted in many court rooms in the United Kingdom and United States. These are not investments of public funds which are urgent, but ones that can help in connecting citizens to the proceedings in this House and in reducing arguments between us as to what has or has not been said a moment ago.

That leads me well onto my responsibilities shadowing in respect of the media. I am pleased, as are many people, to see the three hour loop of programming on GBC has disappeared, but that also means that we are no longer seeing old archive programmes which many enjoyed, just not over and over again every three hours for a week. Whilst old broadcasting masters have resigned this year, we can also however see that there is new talent on screen alive and well on our screens. So I am confident for the GBC’s future. The channel remains as important as ever when it comes to local news information, although channels in the area are now also providing Gibraltar news in their bulletins in competition with GBC. I believe that one political debate every two weeks in GBC is not enough. More should be provided – although I am told that it is hard to get participants to appear. Perhaps, that is because of the treatment that those who dare to criticise the Government are held out for. See for example, the treatment meted out even to the journalists themselves by the Chief Minister himself. He was, widely criticised in town for the manner in which he dealt with Ms. Clifton Psaila recently. He showed himself in that interview not to be a gentleman in his approach. Of course journalists are there to put controversial points to politicians. The questions they as journalists raise are often on the lips of the public and of Opposition Members, but again, the Chief Minister’s style is not to tolerate dissent even in journalistic questioning. When I raised this issue last year it was hotly denied. This year, with the benefit of all Gibraltar having seen the Chief Minister at his worst on our screens, I can speak with even greater authority.

I want to do a short review of the papers also. This year has also seen important developments, I think, in the print media.

Whilst Panorama and the Chronicle have consolidated their positions, the new daily Echo has unfortunately come and gone. At least its weekly stable mate, the Vox, remains a weekly together with the Chief Minister's particular favourite, the New People. At least our print media is thriving and that is good for democracy.

I turn now, Mr Speaker, to my responsibilities for Financial Services in respect of which I shadow the Chief Minister. It has been a mixed year for those of us who provide financial services from Gibraltar and it is not fair to necessarily say that where there is an obstacle in the way of progress to our financial services activity the blame must lie at the foot of the Government. Many of the obstacles we face are placed in our way by the same parties that are traditionally intent in ensuring that our economy should not achieve self sufficiency. Similarly, whilst Government are therefore not always the problem when things go wrong, it is also true to say that the continued success of the sector, in all its many incarnations, is not entirely down to Government.

In this sector Government must refrain from interfering or obstructing. But again, all too often one hears that applications, permissions, licences et cetera are delayed. International clients are surprised at how long it takes to do things in Gibraltar. Why? Because one of the things that is wrong, and for which the blame must lie with the Chief Minister opposite, is that these items, these licensing permissions et cetera, are said to be lying (in the horizontal sense) on his desk. This is the problem alluded to before. Yes, he is a busy man, he is as important to Gibraltar as Tony Blair is to the United Kingdom and as Mr Bush is to the United States, but that is not an excuse. He perhaps just needs to work a little harder and attend a few less cocktail parties. But having said all that, it would indeed be churlish not to recognise the award to Gibraltar of the award for the Best International Finance Centre. That accolade is one that recognises the very high standards of the professionals in that sector that operate from Gibraltar.

Also worthy of note is the FSC's appointment to the International Organisation of Securities Commission which was announced in April. We may disagree on many things across the floor of this House, but I think we can all agree that these achievements really do bloody the nose of those who seek to constantly denigrate the work that is undertaken from Gibraltar, some of which is also now very high profile. This serves to give the lie to those of our detractors who seek to link legitimate, international, financial activity carried out from here to less reputable objectives. Indeed, it was quite right to challenge those who would link us to recent criminal activity in the neighbouring state, to put up or shut up, show that there is a link between our finance centre and that activity or stop the baseless allegations. But I have no doubt, that as our finance centre continues to grow, it will do so in the face of continued unfounded allegations from these quarters. What is certainly true is that the financial services landscape is changing and our finance centre must adapt to this new climate.

We are soon to be without a sellable corporate product which is low or no tax. In answer to my Question No. 450 of 2004, the Chief Minister referring to this corporate product, said we could "not be without a product". Well, by the end of June next year, exactly a year from now, we will have no product to sell. Exempt companies, which have been in place since the new arrangements reached with the Commission, will remain in place until June 2007. Exempt companies which were in place before those arrangements were in place will remain until 2010, but we will have no new low-tax corporate or no tax corporate product to sell after June next year. We therefore totally reject the arguments of the European Commission, obviously spurred on by others, on regional selectivity. In fact, I have recently written to the Chief Minister on the subject to bring to his attention a debate on regional selectivity in Spain, but we must also have action from the Government to ensure that we are able to continue to do corporate financial services business from Gibraltar after 30th June 2006. What we need to do also, is to develop in non-sensitive areas where action is in our own hands. What about modern workable legislation on pensions

which could enable us to become a European hub in this sector? I called for it last year but I see nothing to suggest any progress.

Much as the Government are now doing on updating gambling legislation, must also be done, and quickly, on updating our companies, funds and insolvency legislation. We need the whitewash procedures in our companies legislation. We need to be at the top of our game. Our legal framework on financial services must be modern and flexible to be attractive to international business. Why not move quickly to follow other financial centres with our own framework for the listing of securities in Gibraltar? Why not open doors such as this to new financial services businesses which are not zero tax based? It is in these areas that the Government need to be proactive and open new markets. I unfortunately see little sign of such productivity at a political level. Separately, we have not yet been provided, in confidence or otherwise, with the documentation we have been seeking on the Government's failed tax reform proposals or on the regional selectivity arguments. That is another failure that can be added to the list. I pause just to highlight that it is not only on housing that Government policy is a failure but also on tax reform; arguably the two most pressing issues that faced Gibraltar at the turn of the last century.

It is also true to say that in the sectors of insurance and gaming our private sectors are doing very well indeed. It would be unfair for the Chief Minister not to stoop at least to recognise that the first gaming business was possible thanks only to the investment and vision of the first socialist administration. It is a success story and it would also be unfair not to recognise that it has been nurtured well.

As for the insurance sector I repeat my remarks from last year: "please can the Government leave well enough alone".

Let us turn now away from those whose business is in the finance centre. Let us turn to the plight of the investors who do

business in Gibraltar, they need a body to represent their interests. That is why I called for a Financial Services Ombudsman. Initially, I was encouraged by the response I got from the Chief Minister, but his recent replies have been much less favourable. As I have set out recently in a letter to the press, a Financial Services Ombudsman based on the UK model would deal with the complaints of individuals and would have power to obtain redress on their behalf. Such a body's powers would not deal with regulatory issues which would continue to be in the province of the Financial Services Commission. The latter would thereby also be liberated from having to deal with complaints about the performance of financial products and the like, which the Financial Services Commissioner is now having to handle in the absence of a more appropriate body.

The Government initially appeared to give some support to my proposal. The Chief Minister told the House, in answer to my Question No. 446 of 2004, that they were "considering this matter" and that although not a lot of work had been done on it "the issue has been consulted on". Past tense, has happened, has consulted. He also said that he "would expect our Financial Services Ombudsman, when we have one, to be of the same sort of creature with the same sort of powers and roles as is the norm in the UK.....". That is a direct quote from Hansard. I welcomed then the Government's positive answer to my question.

Now, however, when I have followed this issue up, the Government's position has changed considerably. The Chief Minister has now said (in answer to my Question No. 489 of 2005) that "The Government are not working on this possibility at this time...". Fair enough, he could just have abandoned the whole proposition, but he has surprisingly also said in answer to supplementaries to this question, "...the Government have not consulted anybody about it.....". Much as I was doing earlier when I was looking at his statements at what had happened et cetera, that statement is totally at odds with his own earlier reference to consultation having already taken place. The Chief

Minister may not like to hear this but I am only putting his own words back at him, in fact, he may have misled the House in his contradictory answers. Perhaps in his reply he can give us some clarity on the issue. At the very least, these contradictions illustrate how he blows hot and cold on issues as and when they appear to him to be convenient. Moreover, the Government's change of attitude shows, in my view, a dramatic lack of concern for small investors. If we are to continue to run a successful Finance Centre in an ever competitive world, the interests and concerns of the small investor (almost universally considered to be best safeguarded by a Financial Services Ombudsman) must be even more important to us than those of the institutions that serve them. I therefore urge the Government to start work on the establishment of such a body immediately, here as I have urged them in the press.

What of the TEP Plan holders? So much of their plight will reflect more widely on our community, as those who might otherwise have been wealthy in their old age may now seek to rely on social support. So, although there is little this House can do for them at this stage we cannot lose sight of their plight. We have to be ready to assist them in making changes to our national legislation to enable them to fund proceedings against such parties as may be necessary to ensure that justice can be done and as I have already told him, Opposition Members stand ready to help in respect of passing that legislation.

All of the concerns I have highlighted in this speech lead me to the conclusion that there are serious flaws in the economic vision of this Government. I fear that the helmsman has no route map for the future and has lost control of the direction in which we now drift. As I said when I began my contribution, I believe that we are all agreed that the future we all aim for is to see Gibraltar economically self sufficient. I do not believe, however, that the Government are able to lead Gibraltar in that direction. They are, in fact, steering us away from self-sufficiency. As for the suggestion that the Chief Minister makes in the press, that we are flush with cash, I am reminded of the words of Samuel Taylor Coleridge in the Rhyme of the Ancient

Mariner: *"Water, water, everywhere but not a drop to drink."*
The peoples poem today might go a little like this: *"Money, money, everywhere but not a cent to spend."*

That is how it must feel for those paying increased licence fees and charges and paying higher utility fees, when the Chief Minister tells them that actually the Government have record amounts of cash. Although he may not share our analysis of these estimates I would ask the Chief Minister to address the substance of our arguments and not deploy the easy diversionary tactic of personal vilification in his reply.

We have raised serious issues of concern by looking at the detail of these estimates. Let the House hear the Chief Minister in a mature reply that addresses our concern that does not rely on insult or on the invective, as he usually does. Let us hear reasoned arguments from him on the details that we have raised. Let us hear him deal with particulars with the issues which I have raised as to his credibility that are important. The arguments from the Opposition Members reveal the reality of an administration that has failed to deliver so many of their commitments that they can only be characterised as a failure, even by the Chief Minister himself when he describes his own housing policy. Even he cannot now think of any other way to present it to the electorate. These failures, which we so abstractly debate here, have real effect on the lives of citizens.

Finally, the Chief Minister referred yesterday to increases that he was proud of but there are increases affecting Gibraltar which he is not so proud of and which he does not like to refer to, let us go through them. I have a list of 10, others can come up with more, I am sure. What about:

1. Increased juvenile delinquency;
2. Increased cost of water;
3. Increased cost of electricity;

4. Increased cost of doing business with Government;
5. Increased public debt;
6. Increased negligence claims against the Health Authority;
7. Increased cost of cocktail parties;
8. Increased number of Gibraltarians on the housing list;
9. Increased number of Gibraltarians unable to afford a home in Gibraltar; and
10. Increased number of Gibraltarians having, not like the Chief Minister who might make the choice to buy a new home in Sotogrande, having to live in Spain.

Increases are what will snare this Government not what will save it. So, it seems to me, that the economic illiterate, the voodoo economist (that is what he calls the Leader of the Opposition), and the man who cannot be believed (as he says of the Leader of the Opposition) is the man who presently leads the GSD. Slowly even he is coming to accept it. What he described himself in November 2003 as a small electoral reprimand, he himself now accepts is the total policy failure of the GSD in housing. The theatre vision thing of 2000 is the crater of 2005. It is a pity actually that the Theatre is not ready, he could do his next budget speech there as a comedy stand-up routine.

Unfortunately for all of us though, the consequences of these failures will echo in our collective futures. For all the reasons that relate to my portfolios, for the reasons that the Leader of the Opposition has already set out, and for the reasons that my colleagues have and will set out, I, enthusiastically oppose this Government's policies, and I believe that this a view which is fast becoming to represent the majority of our fellow citizens. It is time for the Chief Minister to start thinking about packing his

political bag. I will look forward to the Chief Minister's reply, but I can imagine it will not be calm. After all, "hell hath no fury like a failed Chief Minister caught out".

The House recessed at 5.35 pm.

The House resumed at 6.00 pm.

HON L A RANDALL:

Mr Speaker, I will now comment on the portfolios I shadow and will start with transport, with the Gibraltar Bus Company Limited. Regrettably, we are landed with buses that are too big for Gibraltar and there is nothing that can be done about it at this stage, other than to learn to live with another unwise decision by this Government. I will now talk a little about why I think they are big. The fact that they are too big can be evidenced by the difficulty bus drivers have in negotiating certain parts of Gibraltar; the number of times that buses invade the wrong side of the road, even when the lines demarcating the division in the road are continuous, which not only contributes to the traffic chaos on our roads but which I have been given to understand is a punishable traffic offence; that much of the time buses operate the routes at very low occupancy levels; and last but by no means least, that a considerable number of much needed parking spaces had to be forfeited to get the buses on the road. Having said that, I accept that the service being provided now is better than that which was provided before. However, God forbid if this was not the case after investing close to £4 million of taxpayers money to start the company.

In Head 4C Transport, Roads and Traffic Sub-head 7 – Public Bus Services, £1,000 was provided in the Estimates for the financial year 2004/2005. At the time of discussing the estimates last year, the Government implied that it was only a nominal provision. The Chief Minister in his closing contribution last year said, "so, in even larger cities and towns, it is necessary for the local authority to subsidise, in a small

community like Gibraltar it becomes more important than that to do so." I therefore assumed it was the Government's intention to fund trading deficits of the company with subsidies. I am surprised that the forecast outturn shows the amount at zero, and even more surprised to find that in the estimates for 2005/2006 the provision is set at £1,000. Hence, it appears that no subsidy will be required in the first two years of the company. I will leave it at that for now but I propose to follow the matter up in greater depth at Committee Stage. Finally, I trust that the Government will Table the accounts of the company in the House.

Opposition Members are opposed to the excessive increases in Ministry of Transport related fees introduced by the Government with effect from 1st April 2005. Particularly, the increases related to road tax, as the Opposition in their last election manifesto committed themselves to abolish road tax within their first term of office. According to the answers provided by Government to Question Nos. 351 to 430 of 2005, the average increase of the fees are in the order of 33 per cent and are expected to yield an additional £408,000. The Government justified the increases by saying that 20 years had elapsed since they were last increased. The Opposition do not accept this justification, particularly, as the Government insist that they are not short of money and as the Chief Minister said in his contribution yesterday afternoon, that Government are not a profit organisation.

I will now move on to traffic. The Chief Minister in his closing contribution last year said, "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 would have the effect of relieving what he calls the chaotic traffic situation) "is not an analysis of the position with which we agree". Although I accept that in a small country like Gibraltar the issue of traffic management is problematic, I am of the opinion that this Government could have and could do more to alleviate the chaos on our roads. One only needs to look at Head 103 of the Improvement and Development Fund to confirm this. By way of

example, on road maintenance and resurfacing, Sub-head 7, out of a budget of £500,000 only £309,000 was spent, 40 per cent of the budget was unspent. The Hon Fabian Vinet said in his contribution last year, "another issue that is high on the Government's list of priorities is the further provision of car parks". Yet out of a budget of £550,000 for 2004/2005, he only managed to spend £45,000, less than 10 per cent. I regret that he fared no better than his predecessor, the Hon Joe Holliday, who in his contribution to the budget debate for the financial year 2003/2004 made a similar statement and then went on to spend only £269,000 of the £750,000 that was approved. If the provision of car parks is high on the Government's list of priorities, why were all the projects provided for in the budget not realised? One of the attributes of good management is to deliver projects to budget and on time, an attribute that is lacking in this Government in these and many other areas, the construction of affordable housing being very much a case in point.

Furthermore, the Government did not provide anything in the 2004/2005 estimates for traffic enhancements and this year they have provided a mere £55,000. Meanwhile, the traffic chaos on our roads is going from bad to worse. Perhaps this is why people complain that this Government say very much and do very little.

As I mentioned in my contribution last year, there is a need to provide access to Line Wall Road other than by both ends of it. A need to better manage the traffic that comes down from the Upper Rock, and a need to make better use of our miles of tunnels inside the Rock. With respect to the latter, Dudley Ward Tunnel has been closed to vehicular traffic since 18th February 2003. Whilst the tunnel remains closed, cement wagons and other heavy commercial vehicles, the majority of which come from Spain, are compelled to use either Europa Road or Old Naval Hospital Road, under police escort, to access building sites in the upper areas of the South District. This practice not only adds to the traffic chaos but affects residents of non-heavy traffic chaos, such as Old Naval Hospital Road, who have

complained to the Opposition about the adverse effect that this practice is having on their quality of life and an increased risk to life, limb and property. In his contribution last year the Chief Minister informed the House that the re-opening of the tunnel would cost much more than the £750,000 that was approved for rock safety, coastal protection and retaining walls, in the estimates for 2004/2005. I seem to recall that recently, and in answer to a supplementary question, the Chief Minister mentioned in this House that the tunnel would not be opened in this financial year. This seems to be confirmed by the fact that only £1 million has been provided in this year's estimates for rock safety, coastal protection and retaining walls.

The re-opening of Dudley Ward Tunnel will greatly contribute towards private and heavy goods vehicles wanting to access the south district of Gibraltar, being able to avoid the central areas of Gibraltar and to the general flow of traffic to and from the south district. I trust that the re-opening of Dudley Ward Tunnel, forms part of the traffic plan that the Chief Minister alluded to last year and that we may be able to ascertain this for ourselves, if and when he decides to make the plan available to the public, and that it will take priority over the Theatre Royal project.

Finally, I should be obliged if Government would let me know whether there is any substance to the information that has been volunteered to me suggesting that the Royal Gibraltar Yacht Club will now not be moved from its present location, and that the project to construct a road to link Europort Road with Coaling Island will now not go ahead. In April 2004, when I first asked the Government at Question Time, whether the industrial dispute with the Driver and Vehicle Examiners at the Motor Vehicle Licensing Department had been resolved, the Chief Minister in his reply informed the House that the Government would shortly decide what action to take in this respect. Fifteen months later, the Government have not yet resolved the dispute. It appears that shortly, in the dictionary of spin, does not have the same meaning as in the dictionaries that most people in Gibraltar use. The dispute is affecting the level of service being

provided to the people of Gibraltar. Perhaps the dispute could be settled more quickly if the Government followed the advice of the Opposition with respect to the Post Office. It might also be useful if more power could be delegated to the Human Resources Manager, thus allowing the professionals to get on with the job, instead of having everything decided by No. 6 Convent Place. Furthermore, I was concerned to learn that it appears that the machine to test exhaust emissions is not working yet certificates are being issued without this being checked.

I will now move to telecommunications. I appreciate the major investment that the company has made, and trust will continue to make, in acquiring internet protocol dedicated bandwidths to service the requirements of the gaming companies that have located platforms in Gibraltar. In one year, as the Chief Minister said yesterday, these have grown by 50 per cent from 10 to 15. Not only do these companies now employ over 1,100 people but the revenue that the Government derive from them in respect of gaming tax and licences, is expected to go up in 2005/2006 by just over 11 per cent to £5.05 million. The gaming industry now constitutes one of the more important pillars of our economy and we must therefore leave no stone unturned to ensure that we in Gibraltar provide them with the telecommunications services that they require to further develop their business and at a level of excellence of service that is second to none in order to entice them to continue to operate from our shores. In this respect I take the opportunity to offer Broadband Gibraltar Ltd, which I understand will operate under the name of Sapphire Telecommunications, my best wishes for the success of their operations in competition with Gibtelecom and look forward to monitoring the contribution that they will make in support of this very important pillar of our economy. In the same way as the granting of general authorities to VOIP service providers resulted in consumers enjoying lower charges and choice of carrier for the international voice traffic, I expect that the addition of Broadband Gibraltar Ltd to the telecommunications industry in Gibraltar, will produce the same effect in fixed network services.

Although I am a proponent of competition, we must be conscious of the fact that Gibraltar is a very small market. We must therefore be cautious that in opening the market to competition we ensure that, as far as possible, those companies that enter our market undertake to make the investments in Gibraltar necessary to grow the industry, and that the Telecommunications Regulator is obliged to offer them, in their early days of the operation, is not exercised in a way that may put at risk the huge investments that the incumbent has made and continues to make in order to provide services that they are obliged to by virtue of their significant market power, better known as SMP status. In other words, that the new entrants are allowed to eat the cream off the cake only for as long as it takes the business to get on its feet. Thereafter, they should, if the pertinent EU directives allow, be accorded SMP status to ensure the competition is on the basis of a level playing field. Alternatively, the Regulator should adequately penalise new entrants if they fail to adhere strictly to their roll out plan. Additionally, the Telecommunications Regulator should ensure, again, as far as EU directives will allow him, that companies that intend to compete in non SMP areas of the industry, such as digital mobiles, do so with infrastructure that is located in and run from Gibraltar. For as long as our telephone numbering plan continues to be constrained and the Spanish Government prevent Spanish companies from entering into roaming agreements with Gibraltar based GSM operators, it would be, to say the least, bizarre to allow GSM services to be offered in Gibraltar from networks located and/or run from Spain, whose Government is responsible for the constraint.

The Government continue to own 50 per cent of the equity of Gibtelecom and from the answers which I have received in this House to questions on this subject, they have no immediate plans to dispose of their equity holding. In the financial year ended 31st December 2003, the latest year for which I have been able to obtain accounts, the company achieved a turnover of just over £22 million and profit before tax of £6.2 million, which is equivalent to approximately 28 per cent of turnover, and declared a dividend to its shareholders of £4.6 million,

which is almost 21 per cent of turnover. It is a level of profit and return that many companies in the world, let alone Gibraltar, would envy. This afternoon we learned from the Hon Fabian Vinet that the turnover for 2004 was £24 million, a growth of 9 per cent, and that the declared dividend was £4.8 million, 20 per cent of turnover. It is very well to respond to the needs of the gaming industry by investing in bandwidth et cetera. Government have an obligation to continue to respond to those wanting to invest in Gibraltar. However, the investment in additional IP dedicated bandwidths, which will no doubt be leased by the five additional companies that have commenced operations in Gibraltar, should generate additional turnover and profit which in turn should afford the company greater opportunity to lower its charges and still produce a more than reasonable return for its shareholders. In my contribution last year, I strongly encouraged the Hon Fabian Vinet as Chairman of the company, to use his influence with his Verizon nominated peers on the board of the company, to ensure that the company reduces at a much faster pace the level of charges it levels for its services.

It appears that he did not take heed of my words, as to the best of my knowledge, the last charges the company reduced were for ADSL services and international voice services in July 2004 or shortly thereafter. Whilst the Hon Fabian Vinet referred to the reduction of these charges last year he made no mention of reductions this year. It is evident that with the profit before tax of the company's earnings, there is plenty of scope for reducing charges. Verizon, who have publicly announced their interest in disposing of its equity holding in Gibtelecom, is not likely to accede to price reductions unless the Minister as Chairman applies his best endeavours to the task. Failure to reduce charges more quickly could encourage more and more customers to bypass the networks of the company to obtain services at a more favourable price. A case in point being customers who are using bypass to avoid paying 20 pence per minute for a local telephone call from the fixed network to the mobile network. I again urge the Hon Fabian Vinet to use his best endeavours to ensure that the company lowers, across the

board, the charges that the company levies its customers for its services.

The Gibtelecom ex-GNC complaint against the EU Commission on the telephone numbering issue, and the Gibtel complaint on GSM roaming, were lodged with the European Commission in 1996. Nine years later they have still to be considered by the Court of First Instance of the European Commission. In his reply to Question No. 566 of 2005, the Chief Minister stated, "a possible interim solution to the numbering issue is currently under discussion with Spain and it would not be in Gibraltar's interests to provide, at this stage, the information requested by the questioner. I can however say that the Government are confident that all such problems can be overcome and costs sustained and that the use of 00 44 for calls from only Spain to Gibraltar is totally viable. It is the Government's preferred interim solution". He made no mention of an interim solution for the roaming complaint. By implication, and I believe that it was confirmed by the Hon Fabian Vinet in his contribution this afternoon, he would be prepared to accept an interim solution to the numbering issue other than in tandem with a solution to the roaming issue. Be that as it may, the only solution that Opposition Members would support, is one whereby Spain recognises all of the geographical area codes that have been assigned to Gibraltar by the International Telecommunications Union, the ITU, and which are recognised by every country in the world except Spain. Hence, all that we would be asking Spain who are members of the ITU to do, is to get into step with the rest of the world.

I will now move to utilities and start with water. The Opposition are totally opposed to the increases in tariffs introduced by the Government with effect from the invoice for April 2005, by virtue of which consumers in general will have to pay an additional £800,000 in the financial year 2005/2006. In the financial year 1996/1997 when this Government came into power, the compensation paid to the water company was £607,000. The Government have estimated that in 2005/2006 the compensation will be £1.5 million. This Government therefore

propose to eliminate almost all of the compensation that they have been responsible for in the last 10 years in one clean swoop. The Government's reason for increasing charges is that water charges had not been increased in the last 20 years, but why increase them if, as the Chief Minister said yesterday, Government are not a profit organisation, and it has been the policy of successive administrations to pay the water company compensation in lieu of water increases, because of the high cost of water in Gibraltar? The price of water in Gibraltar was high in comparison to Spain and the UK, even before the increase let alone now. However, the level of compensation was the price successive governments were prepared to pay in order not to require consumers to bear the cost of their policy not to rely on sources in Spain for the supply of such an essential commodity. This is a policy that the Opposition wholeheartedly adhere to. Furthermore, the Government have provided in the estimates a sum of £1.5 million for compensation in lieu of water increases for the financial year 2005/2006. This equates to an increase of 24 per cent above the forecast outturn for the previous year. The highest annual increase in the level of compensation since 1998/1999. At Committee Stage I will attempt to establish the reason for the abnormally high increase.

I will now move to electricity. The Opposition are also opposed to the increases that were introduced by the Government with effect from the April 2005 invoice for the same reasons that we oppose the increase in water charges. The increases in electricity are scheduled to generate over £2 million of additional revenue, which will be borne by consumers in Gibraltar. The increases in electricity and water have a number of adverse effects, of which I will refer to three that I consider to be the more important. Firstly, it makes much more attractive for first time home buyers to go and live in Spain. They thus pay less for electricity and water and also avoid the exorbitant prices for property prevalent in Gibraltar by virtue of the fact that this Government allowed demand to outstrip supply by not building a single unit of affordable housing during the almost 10 years that the GSD administration have been in office. Secondly, the

increases are more financially onerous on those who can least afford to pay, namely, low income Gibraltarian households of which there are many. Finally, the increases will make it more difficult for the retail, wholesale and other sectors of our economy to compete with our peers from across the border. These are just further examples of the uncaring nature of this Government, a Government whose Chief Minister said yesterday that they had a duty of care to protect the financially less well off.

Looking to the future I am concerned about the reports that I recently read in the international press regarding the worsening financial situation of the Multiplex Group, as it could put in jeopardy the realisation of the East Side project and consequently, the new generating station that the Government propose to build in the upper rock. I am also concerned about the ability to supply property developments, presently under construction, with the electricity if the new generating station were not to be realised or delayed. I trust that Government have a contingency plan in place to cater for my concerns becoming a reality. Additionally, I am concerned that the MoD is rumoured to have pulled out of participating in the new generating station.

I will now turn to the cemetery. I was pleased to hear from the Hon Fabian Vinet that the cemetery will at last be refurbished, or at least a start will be made this year. I think it is long overdue but I suppose it is better late than never.

I now move to postal services. We are of the opinion that the overall level of service being provided is acceptable, not as the Chief Minister said 'one of the best in Europe', but acceptable and much better than what we were subjected to for a protracted period of time. It is regrettable that the Government did not earlier pay heed to the advice given to them by the Opposition. On more than one occasion the Opposition encouraged Government to climb down from the high horse and enter into meaningful negotiations with the people concerned, in an effort to resolve the mess the postal services were in. Had

the Government acted earlier on this advice, the people of Gibraltar would not have had to endure the protracted period of, to put it mildly, poor level of service they were subjected to.

I will now turn to the lottery. The surplus for the financial year ended 31st March 2005 of £18,000 is one of the lowest on record. Between 1988 and 1996, a period to which the Chief Minister refers to when it suits him, the results were very much better. Additionally, I was surprised to hear the Hon Clive Beltran speak about changes to be introduced to the manner in which the lottery is run, when we have been given to understand that Government recently informed the lottery agents they did not contemplate making any changes.

With regard to the prison, the Hon Yvette Del Agua in her contribution, stated that the start date was scheduled for late 2005. Again, I am pleased to hear the news. At Committee Stage I propose to ask questions to attempt to determine the total cost of the project and its completion date.

In concluding, I take the opportunity to thank the people of Gibraltar for the privilege they have bestowed on me to represent them in this House. I also extend my thanks to all members of staff in service with the Government but particularly those working in the departments that I shadow, for the dedication and effort they put into making their departments function efficiently for the benefit of our country. Thank you.

ADJOURNMENT:

The Hon the Chief Minister moved the adjournment of the House to Monday 27th June at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 6.33 pm on Friday 24th June 2005.

MONDAY 27TH JUNE 2005

The House resumed at 10.20 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

GOVERNMENT:

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 P R Caruana QC - Chief Minister
The Hon R R Rhoda QC - Attorney General
The Hon T J Bristow - Financial and Development Secretary

IN ATTENDANCE:

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

Debate continued on the appropriation (2005/2006) ordinance
2005.

HON LT-COL E M BRITTO:

Mr Speaker, I rise to address the House in respect of my
responsibilities for Health and for the Fire Brigade.

In my contribution at the Budget Session last year, I said that
"the Government were 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". I am
pleased to confirm to the House today that the New Hospital has
already been commissioned and that much progress has been
made and more importantly, continues and will continue to be
made to improve our Health Services.

We have recently passed three major milestones in this
projected improvement because of the following developments
that have already taken place. They are:

1. The introduction of new expertise and the restructure of
the Senior Management Executive Team.

2. The start of the implementation of the measures of improvement arising from the work of the Healthcare Development Review, and
3. Without doubt in healthcare terms, the highlight of the year, the once in a lifetime opening of a New Hospital in Gibraltar.

As Members of this House will be aware, we recruited a new Chief Executive for GHA in October of last year. Dr McCutcheon, formerly the Assistant Deputy Minister in the Ministry of Health and Long Term Care in Toronto, Canada, is now firmly in the driving seat and has been leading on these developments and on many of the changes that I announced in my budget contribution last year. One of his first tasks was to recruit two additional members for his Senior Executive team. Dr Karen Parsley and Mr Chris Wilson, the Director of Nursing and Patient Services and Director of Human Resources respectively, commenced their duties in December last year. They too have hit the ground running and have been leading in the changes within their own areas of responsibility. They have joined two experienced stalwarts of the GHA Management, Mr Ernest Lima and Mr Joe Catania, to complete what is a well-balanced, dynamic and very productive Senior Executive Team in the GHA. As part of their expanded roles, the Director of Nursing and Patient Services is also responsible for Quality Assurance and has taken over this element as well as Sponsored Patients and Pharmacy. The Director of Human Resources has also taken overall managerial responsibility for the Laboratory and the School of Health Studies.

The New Hospital

In my introduction I mentioned the new hospital and again, as Members and the public well know, we moved into the new hospital earlier this year. But I have to say, as someone who is currently going through a similar experience, that moving into new premises is never easy. I am sure that anyone who has

had the experience themselves will vouch for this. However, most of us experience this in terms of a few rooms, a kitchen and a bathroom. But when this involves closing down a hospital, moving the patients and all the contents of the hospital lock, stock and barrel into a new building, the experience let me tell them can be traumatic. In Gibraltar, the move was further complicated because there were no back-up hospitals to depend on either before, during or immediately after the move, something that in any other place would have been almost taken for granted and which is considered an essential element in a move of this sort. Consequently, the magnitude of the task, the detailed planning that took place, the meticulous execution of the plan and the logistics involved, all made up a challenge of truly daunting proportions. It was a tremendous success for all concerned to have achieved the whole move in less than six hours. I would like to take this opportunity to put on record the gratitude and appreciation of not just the Government, but also of the whole of Gibraltar, to Chief Executive, Dr. McCutcheon, who had the overall managerial responsibility for the planning and for the carrying out of the move, as well as to all those members of the GHA Staff who also deserve great praise for the dedication, hard work and efficiency which they displayed in carrying out such a challenging task, for the long hours that they worked on that day and for carrying out the transfer into the New Hospital so efficiently and so effectively.

I would also like to put on record the grateful appreciation of the Government and of GHA for the tremendous assistance and cooperation received, in no particular order, from St. John Ambulance, the Royal Gibraltar Police, the Royal Gibraltar Regiment, the Friends of Mount Alvernia, Community Care Ltd and to the many volunteers who, in any way, directly or indirectly helped to achieve the successful migration into the New Hospital. A special thank you I want to give to all those retired GHA staff members who came on the day, worked extremely hard and then went home quietly not expecting anything in return. They were a tremendous help and a source of great pride for the existing staff. Last but certainly not least, we must not forget the patients themselves and their families for

their forbearance and patience during the move and in the subsequent period of adjustment after arriving at the New Hospital. Their cooperation was fantastic and they helped to make the job for all those persons involved with the move very much easier.

The occupation of the new premises at Europort commenced with the Authority's central administration and the School of Health Studies who migrated into the new hospital at the end of 2004. Some of the clinical departments such as Radiology and Pathology were working from two sites by the beginning of January 2005.

The main migration of all the Medical Departments, the hospital wards and the actual opening of the doors to the public for all clinical services took place on Saturday the 12th February 2005. A total of 106 patients were transferred into the new facility from the old St. Bernard's. Over and above this figure, 50 other patients were transferred to Mount Alvernia the previous Thursday. The move commenced at approximately 9.30 am. and by 3.30 pm the patient migration had been successfully completed.

On the day it was impressive to watch and I pay particular tribute to two members of the Gibraltar Regiment, Sgt Rowbottom and Sgt Norton, who helped out in the command post in the new hospital. The planning that had gone into the move was so meticulous that at any given point in time, we knew exactly by name where any particular patient was. In other words, whether he or she was still in bed in the old hospital, whether he or she was actually in an ambulance or in an assisted vehicle or in a bus, because we used three types of vehicle, was actually in transit, and where in Gibraltar they were specifically located because each of those vehicles was in direct communication by radio with the central point in the new hospital, and at what point exactly they had arrived in the new hospital. This was charted on the wall by a docket system of cards showing the progress of all the patients and of the departments. It was meticulous planning, a tribute to the people

who carried it out, especially to the two people who planned the original idea and the way it was carried out.

It is an indisputable fact that Gibraltar can now boast of an excellent secondary care facility, within an environment which is welcoming for the user, which is spacious and well equipped for the benefit of not only the patients but also the staff. For example, we now have full air conditioning throughout the building, something that has never existed before.

Visitors to the Hospital will also have noticed recently the introduction of "Front of House Staff" at the reception. This staff respond to incoming calls and manage the communication centre. The general public has very well received the development of this service. It has also assisted in releasing the Hospital Attendants, or Hospital Porters as they are more commonly known, to focus on their other duties. We are now introducing a further initiative using volunteers from Community Care, who are also assisting in front of house duties and orientating the public into the geography of the building. This new Patient Services Team at present consists of 10 assistants and they are located close to the Reception Desk. I have to stress that this service is complimentary to the work of hospital staff and not a substitute for it. It includes, and no doubt it will be developed in the future, but it currently includes:

- Helping hospital visitors with any queries they may have, from finding their way to telephone numbers.
- Providing assistance to patients themselves, something that sometimes some of us sometimes forget, befriending and attending to patients who have no visitors. Something that sadly happens more often than we would like. This can involve running errands for them, going out to buy something for them, whatever the patient needs; and
- Comforting and helping the families, whatever the family's needs may be, when an extra pair of hands are required.

This is an innovative service, it is served by volunteers, it is working well and no doubt we will be developing it as and when

the needs are established, and as and when we see how it works.

Of course, the substantial increase in the amount of space allocated to the New Hospital and the complexity of its new systems has required an increase in staffing levels. Not just the clinical staff but in the level of domestics, administrative and in the level of ancillary staff. Members will recall that in the last Question and Answer session of this House I confirmed that over 80 additional staff had been recruited or were in the process of being recruited, or would be recruited, directly connected with the opening of the new hospital. The Chief Minister in his address at the end of last week, mentioned the increasing staff in GHA over the years, but this is specifically 80 new members of staff directly concerned with the opening of the new hospital. As a further example of new developments that are taking place within the various sections of the GHA, I am glad to say arrangements are in hand for the GHA to participate in a collaborative study with the London Teaching Hospital on standards and methods used for cleaning. The GHA attaches a great deal of importance to this type of exercise. It is well aware of the worldwide concerns of the link between the deterioration in cleansing standards and the upsurge of hospital acquired infections. Patients, visitors and staff will be consulted in a cleaning satisfaction survey that we intend to introduce in due course.

I turn to the catering facility, which has been permanently on the mind of a particular Opposition Member for a number of months, including periods when she accused the Government, wrongly I should add, of having forgotten to provide a kitchen in the new hospital, whereas it had always been planned that the Catering Unit would be outside the hospital and not inside it.

This Unit is now up and running and working well in very much bigger, very much improved facilities at the North Mole. It now offers a fully plated menu service for in-patients. This service is subject to on-going audits that monitor quality, quantity and presentation. The menu system, that offers patients a choice of

four different meals, will be introduced shortly. It is intended that this service will be available via an Intranet link between the hospital's wards and the Catering Unit at North Mole.

Dialysis, again a subject that was well ventilated and debated during the last Election campaign and one which this Government promised to introduce, is literally on the doorstep. There has been a little delay for two reasons. One, because at a late stage in the planning we decided to change the location so that, for the benefit of the patients, I may add, so that those receiving the dialysis would be on a higher floor and at a level that would give them an extremely good view. Remember these are people who spend three hours a day, well three hours three times a week, sitting on a chair and they will now be sitting in those dialysis chairs facing out to the Bay and the Straits, in a much improved location, that is one of the reasons for the delay. The unit is close to completion and will be fully operational this summer. The GHA has entered into a contractual arrangement with the Directors of the Renal Dialysis Unit that run the services in La Linea and which our patients can re-use. This will mean that it will prove to be a seamless change-over once we are up and running, because patients will continue to see the same faces and will continue to see the same doctors in Gibraltar as they are currently seeing in La Linea. I am delighted to say that this facility will soon be opened, as I said this summer, and will thereby fulfil another commitment of this Government.

The scope of radiology services has also increased significantly since we opened the new hospital. New CT scanner and mammography equipment have been added and most of the new staff have now been recruited and hired. However, we are awaiting the recruitment of a full time radiologist, with which we have been having problems with identifying, to fully support the services and as soon as this radiologist has been found and recruited and is in place, all the services of mammography and CT scan will be functional. The new Mammography itself will be introduced in July following the completion and the taking on of the new Radiographers with the appropriate clinical expertise. A

total of three new Radiographers have been recruited, with two already having taken up their post.

CT Scanning, as I have already said, will be introduced following the recruitment of a second Consultant Radiologist. The development of a fully operational GHA-wide digital system, as well as the development of Tele-Radiology is the long term strategy of this department, and it will mean that eventually there will be universal access to radiology for all clinicians wherever they are throughout the building of the hospital.

The New Hospital has been a tremendous and unqualified success. I would like to put on record at this stage the dedication and tremendous work done by Mr Joe Catania, the GHA's Director of Operational Services and to Mr Derek Alman, who was recently promoted to Deputy Director, who, often at the expense of their own families and their own social lives in particular, dedicated long hours and tremendous effort to supervising and coordinating the conversion of the Europort Building into the New Hospital which we now see. For over two years, and working on their own to do a task that in other new hospitals has been done by teams of many more people, their achievement was truly magnificent and noteworthy. I say again, despite what the Opposition Spokesperson for Health will no doubt say subsequently, that there can be absolutely no doubt that the New Hospital has been a tremendous and an unqualified success, and that the vast majority of Gibraltarians and other local residents have so recognised by their unstinting praise and by their favourable comments. It is only a very small minority, made up by those who have political or other ulterior motives, who have insisted with petty minded and malicious criticisms. The opening of a new hospital is a major undertaking and it is the experience of those who have done so in other parts of the world, that there are always teething troubles and new challenges which emerge as all concerned, including Management, Staff and patients, adapt to the new working environment and conditions. These periods of adjustment, statistics and the experience of others outside Gibraltar shows, usually last at least six months in duration. I cannot resist the

temptation at this stage, to chastise the Opposition Spokesperson for Health, for within days of the Hospital opening in a period when Gibraltar was experiencing the worst weather it had had for many years, to come out with what I called petty minded criticisms a moment ago, about minor, very minor incidents of water penetration through faulty seals in glass windows and that sort of thing and then having the audacity to claim that the roof of the catering facility had fallen in, when in fact what had happened is that in a building easily four times the size of this debating chamber, half a dozen tiles in one corner had collapsed because a seagull had died and blocked a drainpipe and the water had overflowed and half a dozen tiles had collapsed. This was turned by the Opposition Member into a headline which said: 'Ceiling collapses in the catering unit in the new hospital'. It is not true, I say to the hon Member, I said six tiles not the whole ceiling, and that is not the whole ceiling, and that is, with respect, irresponsible opposition. *[Interruption]* I do not intend to get into an argument in the middle of my speech and I could name a number of other issues. The point I am making is one of principle and that is that it takes, in the experience of others, not less than six months for a new building of this size of hospital to settle down, and to come up with those sort of minor criticisms within days of opening is at best petty minded.

I will now move on to cover those other areas which were under review by the Healthcare Development team and which were the subject of recommendations for improvements which have now started and which are being implemented.

The abolition of private practice within GHA premises has been carried out successfully and moreover, with the cooperation of those concerned. This is something that goes back years, that others have tried before and that we can now confidently say that private practice as a matter of delivering Government policy has been stopped at the insistent pressure of the general public and of a number of sources and this has now been stopped. I say here quite categorically that if at any stage there is any incident of private practice that is identified, and I invite

Opposition Members as well as those who are listening, if any incidence of private practice within GHA premises and within the contracted hours of the physician concerned, then I invite that information to be brought to me so that the necessary action may be taken. Let us be quite clear that contractually, it is not now a question of promise, it is not a question of agreements in principle it is a contractual obligation that prohibits private practice. As all Members know, there has been a historical link between private practice and waiting lists and I stress that this Government are committed to ensuring that patients do not need to seek private care to ensure rapid treatment of their medical condition. I will be expanding on the matter of waiting lists in a moment.

Another of the workstreams of the Healthcare Development team focused on training needs analysis and staff appraisals. This is again, something that happens in the background and most goes unnoticed by most of us but I stress that these assessments are on-going and are now in place. At least the groundwork has commenced and is now in place and will eventually be a full blown exercise carried out on all senior members of staff and all technicians.

The Government in general, and I in particular, made a commitment in this House to introduce a new Complaints Process that would be responsive, effective, requiring quick responses from the GHA and offering an independent right of redress where this was not forthcoming. I am glad to say that this has now been achieved, that it is backed by the law, and moreover, that it is working well under the newly appointed Complaints Co-ordinator Mrs Marisa Desoiza. The importance attributed by this Government to a proper complaints procedure that works, that has the confidence of the public and which ensures that the complaints get the attention that they deserve is evidenced by the Bill that I Tabled in this House and by the consequent legislation that has been passed. The legislation made 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 services provided by the

GHA. In answer to a question some weeks ago, I informed this House that only one complainant had sought to involve the Ombudsman in the final stages of this procedure, and I inform the House now that since then, another three complainants have requested review of their cases by an Independent Review Panel. I take this opportunity to mention that many complaints fall into the category of what I call 'informal complaints'. In other words, that are of a verbal nature. Strictly speaking, there are two types of complaints, informal and formal. Informal are the ones that are made on the spot, dealt with on the spot by the staff concerned, and most people given a satisfactory answer to their concerns, are usually happy to accept that answer. This, statistically, is what is happening. The second stage is when people are not satisfied and when they go into writing and they put it into a formal complaint and then it is dealt with through the process, which I will not go into, which is well established. I will take this opportunity to say that I, myself, hold a political surgery once a week where I attend to a large number of people, ranging between five and 10 every week, of people who come for two reasons. (1) For informal complaints; and (2) seeking information or seeking help on how to progress, and as people tend to do in Gibraltar, they feel that as they are going through the Minister this will help them in achieving their aims or objectives more quickly. I take this opportunity to state, for the benefit of those that are listening, that I hold a political surgery once a week and that the doors of that surgery are open to any and every member of the public, and that anybody who has any concerns that they feel, in many cases they are wrong because I then have to refer the matter to clinicians, but anybody who wishes to see the Minister, all that that person has to do is to pick up a phone and ring up my office and ask for an appointment and an appointment will be given to see the Minister, and the Minister will then help out in any way he can. I stress that this does not achieve shortcuts and does not achieve special treatment, but if people feel that they would benefit from this, then they are very welcome to come to see me and they find that it will be very easy for them to get an appointment to see me once it is established that it is a health care matter that they want to see me about.

I reminded the House last year that the Government had made a public commitment to eliminate all waiting lists for planned medical procedures. I informed the House that the waiting list for cataract surgery had virtually been eliminated. I also stated that we were determined to achieve comparable reductions for all surgical specialities and a number of measures are under way 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 has to be undertaken. There is no point in the Opposition Member getting up and saying that we have not achieved this yet, it is something that I know full well and it is something that is not just, as we say in Spanish, 'hechar un huevo a freir', I will translate, 'it is not as easy as frying an egg'. It is the ultimate aim, there are a number of issues, it is not just a question, it was relatively easy to bring in a team to do a cataract initiative, but in other areas there are a number of things that need to be done, and will be done and more importantly, are being done. It is not something that can be achieved overnight.

It is evident that the Government have made provision within the new hospital to ensure that facilities exist to cater for the reduction of those waiting lists. These estimates before the House today provide for an increase in the complement of staff to assist in this process. The strategy will be to achieve a successful combination of scheduling, admission and discharge processes in combination with effective bed management. I stress that until we receive the successful combination of scheduling, admission and discharge processes, and have effective bed management in place, which we are effectively doing already with the bed management, but it needs the other processes to be equally effective for the waiting lists, having been eliminated, to be kept at a negligent level. The scheduling process is already under way within the Gynaecology speciality and arrangements will be made to extend this to other specialities. The Admission and Discharge processes are being developed in tandem with the bed management procedures.

Moving on to the pharmacy work stream. This aims to develop a new, more effective and more efficient service. Work on this is currently under way and major changes in this area will be taking place. Changes within the Primary Care Unit will include the review of all aspects of GP working arrangements and practices. This is currently under way, the study into this not the implementation. It will take some time to implement but we are conscious that the Primary Care Centre does not work to the satisfaction of all its users, and the aim is to end up with a vastly improved Primary Care Centre for the benefit of all that use it.

Last year I informed the House that we were planning to introduce a revised Healthcare entitlement card in the format of a familiar plastic credit card, to replace the cardboard ones currently in use. This will be issued in tandem with the new E111 card, devised and required of us by the European Commission. These cards will look like a normal credit card, but will be double-faced, one side will have all the European Union information required of the E111 form and on the other side it will replace the pink cards which we now have with our local patient care information. As I said, we will commence issuing these cards within a matter of weeks.

Let me now turn to this coming year. We have done much, but let me state categorically that I know, and the GHA and the Government know, that much still remains to be done and much will be done to bring to the people of Gibraltar the system of Healthcare that they need and deserve. A strategic Management Plan has been developed and has already started to be implemented. This will concentrate on three areas over the coming years:

1. Improving clinical outcome;
2. Improving corporate performance by GHA; and
3. Building leadership capacity.

These three areas have emerged as a result of the reports of the Healthcare Development Team, and of the observations of

the new managers that have joined the GHA team, especially hearing our staff and listening to the patients through the complaints process.

Dealing first with improving clinical outcome. Putting it very simply, the Government expect the GHA to provide the quality and the level of service that patients are entitled to and deserve. Easier to say than to do. Management believes that GHA has both the will and the ability to do so, but it will not be an easy objective to achieve in the short term. To use an analogy from schooldays, some marks are easy to get; some are more difficult. For example, It is easier to hire a person with a new skill, such as our new General Surgeon Mr Deardon, who will soon start laparoscopic gall bladder surgery, which many people in Gibraltar have had to travel to the UK for operations to have their gall bladder removed, it is easier to hire this new person than it is to change the long established practices and the philosophies that are so deeply ingrained within our culture of caring. It is necessary to do this and to make our patients become more involved in decisions about their care. Nevertheless, despite the caveat, GHA is committed to facing and overcoming both the easy and the difficult challenges ahead.

Competent clinicians, again, easier to name them but not always so easy to find them. GHA Clinicians have been compared with their NHS equivalents in the review carried out by the Healthcare Development Team. It is clear, that the competence of our Clinicians is an essential ingredient of successful healthcare. Now, let me be the first to acknowledge that in some areas, particularly in the care of children, we measure up with the very best. To further enhance our services we have now recruited a Gibraltarian specially trained for the challenges that we face locally. He is a true generalist paediatrician. He has longed to come home and make the contribution that we all envisage. I am pleased to confirm that Dr Daniel Cassaglia, who will be joining us shortly, will truly help maintain the health of our greatest resource, our children. Once he joins, and this is very shortly, GHA will have two full time

Paediatricians. It is by recruiting the right kind of people and giving them the competent team members to work with, helping them maintain their expertise throughout their continuing professional development, that we set Gibraltar on its course to regain a proud and accessible health system.

While in Paediatrics we have done extremely well, we have yet to achieve the same high standards in other areas. Let me stress that this is not something that has suddenly happened in the last two days, I am talking about raising standards from many years ago and achieving higher standards into the future. We are introducing a coordinated system of ensuring the continuing competence of our clinicians. In the term 'clinicians' I include all who are directly involved in patient care. In the past, GHA has relied on their individual professionalism to maintain their skills and has not audited them to see whether this was being achieved. As from now, we are relying on a combination of the following three strategies:

1. Ensuring that our clinicians have access to continuing professional development;
2. Performance assessment of them by GHA; and
3. A new value of leadership to contribute to success.

By the end of this financial year, all the doctors in the GHA, the consultants, the general practitioners and the hospital-based doctors will be on a continuing professional development path following a performance appraisal. I am pleased to report that the first phase has been completed for all GPs and for all Senior House Officers. In this respect, I refer directly to the GSD Election manifesto in which the GSD promised that "doctors that deliver a patient centred service will be valued well-remunerated members of the GHA staff".

There will also be a continuing development plan for all professions allied to Medicine and the performance elements of the Nursing Strategy are well under way. For the first time in the

history of the GHA the Government will be assured that a system is in place to assess and manage the competence of our clinicians. The GHA is also committed to commencing a system of clinical governance that will provide the assurance to the Government and the people of Gibraltar that the quality of patient care is continually improving and that the quality goals established are continuously improving as well.

A few moments ago I mentioned the provision of primary care and our desire to improve what happens in the Primary Care Centre. I have to say that we have had complaints on a number of issues, including difficulties of access, of increasing frustration and that care can be compromised because people sometimes cannot see the same doctor or go to the same team of doctors. Access to care is also made more difficult because of the large number of persons going to the Primary Care Centre only because they are seeking a certificate of sickness to justify their absence from work, or to seek a repeat prescription. This, in effect, cuts down the time that doctors have to spend with their other, and let us be clear about it, more sicker patients.

I have no doubt that the Primary Care Centre has great potential, and management of the GHA have no doubt either. We need to use our resources wisely, to provide a better service to our patients and to provide a better quality of working life for our staff. The GHA Chief Executive is in the process of developing a plan that will be announced and implemented towards the end of this year. The plan is intended to assist people live healthier, live better, in spite of significant chronic illness and to be more engaged and more responsible for their own care. The plan will also help to address Government concerns about the escalating cost of prescription drugs, and escalating, one need only look at the Estimates Book for the last few years to see what I mean. We will be implementing a new computerised prescription system and we will be improving the drug formulary for safer prescribing and dispensing for the people of Gibraltar.

Moving on now to mental health. Again, I accept that our mental health services are, and have been for a very long time let me again stress, that I am not speaking about the last few months, I am speaking of years and years and years that our mental services have needed reform and have been in need of this reform. It has to be said that, in this area Gibraltar has lagged behind the UK and other parts of Europe in terms of the range, the care philosophy, the training and programming provided for these very vulnerable members of our community. Again, we are preparing a development plan for the reform of the services for the mentally ill. It is our intention again to honour our manifesto commitment to “review and modernise mental health legislation and facilities”.

There are three fundamental issues with our mental health services that the GHA wants to tackle. The first is the model of care that is being provided and which the GHA has identified is in need of modernisation. The second is to review and upgrade the facilities. The third is to review the legislative framework for mental health. The Government are therefore committed to now moving on to this final piece of our comprehensive health reform programme, namely our Mental Health Service, having substantially progressed in the other areas such as the Ambulance Service, the new Hospital and the creation of a new Primary Care Centre.

It is very difficult to assess the range of health services required by the population without a scientific evaluation of their healthcare needs and of the burden of illness within our community. The GHA plans to carry out a public health needs assessment into child obesity, into smoking rates and the burden of illness presented by chronic diseases and the access rates to primary care. We will then be better placed to customise the GHA services to match more closely the true public health needs of our community.

Moving on now to development of our clinical service plans. Again, let me state quite clearly that everyone in the community is aware of the unacceptably long access problem that we have

to orthopaedic care. GHA has for some time been actively but unsuccessfully I have to say, recruiting for a second Orthopaedic Surgeon, and as soon as they succeed in engaging one, we will be in a much better place to reduce the orthopaedic waiting list. In the meantime, a number of initiatives are being taken to improve the situation. Let me dwell a moment on the unsuccessful recruiting, the recruiting has taken place, there have been applications for a new orthopaedic surgeon but the applicants have not met the standards that the GHA has set for the consultants that we recruit. It is, unfortunately, the area where our waiting time is the longest but it is also the area where we want to make sure that we recruit an orthopaedic surgeon that can meet the challenges that need to be faced, and can actively half the work that is there to successfully cut down that waiting list. We are determined to do this, we are actively recruiting but I regret to say that so far we have not succeeded. So that these backlogs never arise again service plans are being put in place for each discipline to plan for activity based on need. I stress once again that private practice will no longer be there and will not determine in any way the time it takes to access these services. The time of "pay me now, and see me later" is truly over in Gibraltar.

Last year I spoke at length about the work of the Health Care Development Team. The Government have now received the final reports of all 20 work streams. The GHA is in the process of evaluating them and of developing the implementation plan, the overall implementation plan, for the whole of the Health Care Development Team work. Needless to say, as Members are aware, some of these work streams have already been implemented. Others will be phased in and others will take longer to implement. It is a mammoth task. With the greatest of respect I think Opposition Members and the Opposition Spokesperson for Health in particular, sometimes underestimate the depth and breadth and intensity and degree of the study that is being carried out and the work that is being done and, consequently, the amount of effort that will now need to go into implementation, and the number of resources, both human and otherwise, that those in recommendations and those in

implementations carry with them. I stress this because the Opposition, understandably, are always impatient to see things happening and I cannot promise that all the improvements will come on stream immediately. Some have already come on, others as I said, would be phased in and others may take a bit longer.

I spoke earlier of the great achievement in the opening of the new Hospital. However, it is true that some people still say words to the effect of, "Yes, a lovely new hospital building but things will not change unless attitudes change"

Well, I state here and now confidently that attitudes are slowly but surely changing. An effective and a robust complaints process has commenced and the feedback is already taking its effect. The new management team has embarked on a journey to identify and address the issues in the GHA culture that hinder our ability to truly understand and administer to the needs of our patients. Prioritising the needs of our patients is essential for the success of the reform initiatives underway. This issue is not simply an issue for the Hospital it is an issue for KGV, for the Primary Care Centre and for Coaling Island. Changing culture requires changing attitude and this is the part of the GHA renewal that will take the greatest effort and it is the reform that staff and patients wish for the most.

Turning now to improving GHA's corporate performance. The Government have faith but also have great expectations of the performance of the Senior Management team at GHA. Putting it simply, in the past the GHA was caught in the trap of managing from crisis to crisis. Reactive management. In defence I have to say that the organisation previously had only two senior managers and found it very difficult to move away from the crisis of the day, in order to strategise its development and its implementation. The enlarged Management team is now in place, all five members of it. This team will focus first on improving performance in the key areas of nursing, laboratory, health records, radiology, information systems, finance and human resources management.

Talking about nursing, Florence Nightingale once famously remarked:

“In our nursing, if we are not making progress every year, every month, every week, take my word for it, we are going back.”

These prophetic words are as relevant today as they were when Nightingale wrote them over a century ago. With rapid advancement in modern medicine, changing expectations of the public, access to health care information on the Internet, patients today expect to be partners in their health care rather than passive recipients of it. The Nursing profession worldwide needs to respond to these demands in order to keep up with the changes. In addition to these wider issues for the profession to address, there are specific local issues in Gibraltar that also require tackling in a planned and systematic way. The GHA has recently had three reviews into serious incidents throughout the Authority. Many of the recommendations of these reports, most of which have been or are being implemented, point to improvements that need to be made by clinicians working within the GHA.

Incumbent within the code of professional conduct are a number of requirements which every nurse; midwife or health visitor must fulfil as part of their duties and responsibilities for being a professional. This includes the need for all professionals to keep up to date with the latest best practice; to work with colleagues in delivering safe and effective care and to contribute to the development of knowledge within the profession through the education and training of staff. In order to fulfil these requirements, the Director of Nursing for the GHA has worked with staff to identify the priorities for action. Action on these priorities will ensure that patients in GHA are cared for in a manner that respects their individuality, ensures they are treated with dignity, and receive care which is based on the latest research evidence. The resulting development plan sets out the key objectives for the nursing midwifery and health visiting professions for the coming year.

These objectives focus on the fundamentals of nursing, midwifery and health visiting practices. Where these clearly require input from other professional groups these links will be developed through multidisciplinary team working. In order to advance nursing in the GHA there needs to be a greater focus on the patient, on visible nursing management, on bed management, on discharge-planning and practice development. GHA has initiated programs in each of these areas. The result of these initiatives will be to get the basics right. The Government's overall aim is for the GHA to get patients into hospital more quickly, treat them better and discharge them as planned. In other words, in the long term, and this is a long term issue and I stress what I have said already, hard to achieve, easier to say than achieve and in the long term going in to hospital for a procedure can be compared to taking a holiday. It starts in the Primary Care Centre, where one is referred to a consultant, and at that stage where the consultant or the A&E Department decide that one needs admission for a procedure, at that stage the planning should include in consultation, and will include in the long term, in consultation with the patient not only the date of entry into the hospital but also the date on which the operation will take place and even more importantly, a date on which the patient will be discharged so that the patient, weeks ahead of entering hospital, can plan his or her own life so that the GHA can plan and execute their bed management better and so that the best treatment can be given to the patient, all within a sphere of a timescale of the patient knowing from the outset when the entry point to the hospital is, when the major procedure is going to take place and when the date of discharge will be. I stress again that this is not on the horizon for next week or even for next month, this will take the elimination of the waiting lists, firstly and most important; secondly the recruitment of all the additional staff that we are still trying to recruit; and thirdly the implementation of the plans that I have outlined.

Moving on to IT Services. For many years the Authority has enjoyed what has probably been the most sophisticated and the largest networked IT system within the Government. There

cannot be many organisations in the world that have the complexity requiring the demand for IT than those delivering healthcare. In terms of our vision for the future, therefore, we still have very far to go. The infrastructure that this Government have set up provides the necessary springboard. The Director of Finance & Information Management, is additionally tasked with the development of information, management and technology. The improvements that have been made over the past few weeks are but a taster of what is to come. The aim is to invest in generic and global applications to enable operational efficiency and effectiveness, to introduce a fully integrated electronic patient record and to enable all practitioners to use IT resources in the direct delivery of care. It is intended to promote the use of computer-based training, that is, e-learning, and to provide all staff with training in IT for the scope of service and work required.

A recent review of the Laboratory Services found a number of areas needing improvement. GHA has initiated the implementation of management systems and procedures that will result in full accreditation for the Laboratory in between two and three years. The laboratory will then be on a standard with all the major laboratories throughout the world. One can see a trend here, we are moving forward to achieving standards of the very best, we have the talent, we just need to provide the coaching and the management systems to support it.

I spoke of health records and I have to say that the state of the health records, again I stress that as I have said several times I am talking now years back, not for the last weeks or the last few months or couple of years, the state of our health records have always left a lot to be desired. It has to be said that this has been compounded by the move into the new hospital and the fact that many of the records were originally in a very poor physical state before the move. Tracking the location of a record within the care facility, be it the Primary Care Centre or the Hospital, is also an issue for the GHA. As part of these changes, the functions of medical librarianship and that of appointment scheduling have been separated. These services

are now being delivered from different locations by staff appointed specifically for that purpose. A file tracking system will be introduced. Weekly audits on all issues relating to medical records are being conducted. New management systems and auditing of the availability of charts have been introduced. I have to say that the access to Health records has already improved since the opening of the new hospital from a 60 per cent, or putting it another way, a 40 per cent failure to the current level of 97 per cent success. The centralisation of all waiting lists, the introduction of appointment scheduling and a front desk appointment systems, together with the appointment of further Consultant Staff, will see further marked improvements in the reduction of waiting times. The long term plan for this department includes the introduction of a fully electronic patient records system.

The popular vision of a hospital is as one of a place of healing but we cannot get away from the fact that the hospitals are also places of risk for staff and the patients. Linked to good clinical governance is the support of a solid patient safety and risk management system. Staff safety, fire safety and occupational health will also receive further development and priority for development.

GHA also intend to introduce greater financial accountability and responsibility. It is vital to be able to demonstrate that accountability and responsibility. Government and management need the information and the ability to predict their expenditure and optimise the use of resources and GHA Senior Management has taken on the challenge to modernise the financial systems of the GHA. This includes the management of all expenditure ranging from overtime to purchasing. The GHA will develop its skills in financial management and in the process train middle management to have greater power and control over activities based in their own area. This will in the long term result in greater efficiency, less waste and more patients seen.

There is a Chinese saying that if one wants a year's prosperity grow grain, if one wants 10 years prosperity grow trees but if

one wants 100 years of prosperity grow people. What has been sadly lacking within the GHA is the ability to maintain the growth and the development of its staff.

The Government would like to make GHA fully autonomous if separation from the civil service can be negotiated and agreement reached on terms acceptable to GHA Staff and to Government. This will help Management and staff achieve best Human Resources practices in the principal areas of attendance improvement, of discipline management, of performance management, and of leadership development. In summary, there is a lot of work currently underway, the results of which may not, in many cases, still be visible from the outside but that work is currently under way. The Management team that we now have has assembled a combination of competence; of experience and of the drive to get the results the people of Gibraltar really want, and more importantly expect and deserve from their health care system. I stress that it will take time to bring about the successful results we all deserve. I also stress that GHA is now on the right path to obtain these results and travelling along this path at greater speed each and every day.

In conclusion on health matters, I would like to take this opportunity to thank all members of the GHA Staff in all the GHA facilities for the good work that they continue to do day in and day out, in the best interests of health and of all of us in Gibraltar.

Mr Speaker, I will now deal with the Fire Brigade, which is a much shorter address, and to say that during the past financial year, training and development in the various fields have been the Brigade's priority in operational matters. A number of officers have attended the Fire Service College partaking in different courses such as Rope Rescue, Breathing Apparatus Procedures, Command and Control, Junior Management and Recruit Courses. The Brigade recently undertook a Breathing Apparatus Maintenance Course in conjunction with Draeger UK whereby 10 officers are now fully accredited with BA

Maintenance procedures. This accreditation programme certifies members for a three-year period.

Recently a major refurbishment programme was completed by the Brigade Staff which now provides the Headquarter complement with adequate facilities in as far as Board Room, filing room, toilets and kitchen facilities are concerned. The Brigade have also purchased a number of specialised equipment during this period. These include, foam making equipment, decontamination equipment, rescue equipment and others.

In pursuance of a claim for the maintenance of differentials with Fire Control Operators, following the introduction of the Ambulance Emergency Service within the City Fire Brigade, firemen commenced a campaign of Industrial action in April this year. The Industrial action followed as a result of the Staff Side's non-acceptance of an offer made by the Government, comprising of the introduction of an allowance plus an enhancement to their pension entitlement and a counter proposal to this by the Staff Side having been rejected by the Government. At a meeting held last month, the Staff Side was provided with five permutations which would have allowed individual officers to make a once and for all choice to adopt any of these options. This offer was, however, rejected by the Staff Side who maintained their position on their original counter offer. The Staff Side have been made fully aware of the Government's final offer and the Government have noted the Staff Side's representations. Further meetings are taking place.

On the operational side, the Brigade has responded to 1,400 calls between January 2004 and 31st December 2004. These are classified as follows: 409 fire calls, 826 special services and 165 ambulance attendances. The Brigade mobilised the ambulance services on 3,400 calls. Particularly, on the 28th February 2005, the Brigade attended 44 separate incidents in a period of 24 hours due to the torrential rains that we experienced during that period.

In conclusion, I would like to take this opportunity to thank the Officers and men of the City Fire Brigade for the work that they continue to do 7 days a week, 52 weeks in the year, in watching over the safety of all of us and for dealing so efficiently with all emergencies that arise in Gibraltar.

Before I sit down I would like to take this opportunity to refer to an aside, a throwaway comment, made by the Hon Mr Picardo yesterday at the conclusion of his contribution on the environment, in reference to a letter that he also referred to in his contribution last year, a letter from me that he has not received. Just to make sure that we keep the record straight, and we all know what we are talking about, this is a letter that I wrote to I am not sure of the figure but I think it was in the order of about 50 or 60 people, who all signed a petition in connection with the OESCO power station. I drafted the letter and passed it over to my secretarial staff and told them to send a copy to each signatory on that list. At that point in time, I was not aware that the hon Member was a signatory on that petition. I say that, just to put the record straight, that it is not that the hon Member has received any special treatment, it is that, obviously, a number of letters have gone out and I am not aware whether any other signatory has also not received the letter or whether he happens to be the only case. For the sake of the record let me stress that as far as I was concerned the same letter went out to every single signatory and should have been received by him. I am sure the Minister for the Environment will be pleased to let him have a copy of the letter from his own records if he so desires. Thank you.

HON MISS M I MONTEGRIFFO:

Mr Speaker, I would first like to start my contribution by saying that I do not think I need to go back in time and defend our record when we were in Government, for the simple reason that it is up to the Government of the day to defend their record but on Thursday the Chief Minister made such statements that I cannot allow the opportunity to go by without answering him. As

regards our Health Services he blew his trumpet by saying "the budget of the Gibraltar Health Authority has gone up by 100 per cent, we now have 52 more nurses, more doctors and more support staff", more of what the Minister has had to say today. Well, let me start by reminding the Government that during the budget contribution of 2003 the Minister boasted about the spending of the GHA going up by 85 per cent, and this is what I told him then: "I am afraid that I have to inform the Minister that during our time the GSLP increased the spending by 150 per cent, and if he wanted to boast I could boast further". But I also reminded him that when he was in Opposition he used to say that because we were spending more money, it did not mean that the services were improving. So see, the Chief Minister constantly uses different arguments when it suits him. Of course, today they have to have more nurses and more doctors. Nine years have gone past during which time demand has increased, peoples expectations have risen and circumstances have changed, as the Minister has said today. But what the Chief Minister has not said, and which he would rather forget, is that in 1997 he commissioned a review on nursing. He is totally obsessed with reviews. Then his Minister for Health, the Hon Keith Azopardi, first said that the Government would not be publishing the report, they would think about it. After a lot of pressure from us they published it a year and a half later. What was the recommendation of the Nursing Review Team? That there should be 392 nurses and that there should be a ratio of so many untrained to trained in each of the wards. The Hon Mr Azopardi gave a commitment in this House that the Government would implement this recommendation within a period of five years. In May, two months ago, eight years on, the Government in answer to Question No. 136 told us they have 349 nurses. So, they not only ignored this recommendation but I think they threw the Report into the waste paper basket. Let me tell the Chief Minister that in any case, what really counts is what the people of Gibraltar think. I can assure him and Government Ministers that they do not think that our Health Services have improved by 100 per cent, they think the opposite has happened – that they are worse off by 100 per cent. Let me tell the Minister for Health that we do not highlight problems just to

discredit the Government, this is not our style. We know that if we did this we would lose credibility. We highlight them because it is our job to do so, and the people believe us but the essence of the Hon Mr Britto's speech today is to ask the people to wait for more years to see improvements emerging. Has he forgotten his Government have been in power now for nine years? Quite frankly, it never ceases to amaze me the extent of this Government's persistent use of spin and propaganda.

This has undoubtedly been the trademark of the GSD Government since 1996, and today we still continue to hear them repeating time and time again, all those commitments they promised years and years ago which have still not materialised. Also listening to the contributions delivered by Government Ministers, they continue with the same tactics that is, to constantly bombard the public with announcements which sound very impressive but it takes years, as I have just said, for what they have promised to come to fruition, even the measures they have adopted to try and resolve the many problems Gibraltar faces today have not worked. So it is understandable that less people are being supportive of GSD policies. Today Gibraltar faces many problems. Problems which have been or will continue to be highlighted by my colleagues in their budget contributions.

In my budget contribution last year and in previous ones, and this one is no exception, I always give a comprehensive analysis of the Government's performance during the last financial year in relation to what has transpired in the two areas I am responsible for in Opposition, health and sport, and naturally I have listened very carefully to the Hon Mr Britto, the Minister for Health and the Hon Mr Clive Beltran, Minister for Sport.

Let me start with Health. Again, nothing that the Minister has said today convinces us to believe that things are getting better. On the contrary, there is evidence to suggest that there are even more problems today than before. Since the third Minister for Health took office just after the General Elections, the Hon Mr

Britto has been repeatedly saying ad nauseum that there would be a radical shake up to our health services which would improve them to a great extent. Something he has also said today in his contribution. This has yet not happened, the Hon Mr Britto has tried to paint a scenario which is unreal, a scenario which is alien to everyone else but to him he still continues with the same old GSD strategy – to proclaim that improvements are on the way and that they are just round the corner, but I am afraid to say that since 1996 we have never got past the corner, and I doubt we ever will. Moreover, I intend to prove with factual information, as I have always done in this House, that today there are more problems existing within our Health Services as I have just mentioned.

Since this Government took office we have been hearing the very same promises from the Hon Mr Britto, as we did from his two predecessors. The Hon Mr Azopardi said his two reviews, the medical and the nursing, would greatly improve the services. They did not. The Government were then even unwilling to say which were those recommendations they had implemented. They even ignored many of the recommendations. The Hon Dr Linares, midway through his term as Minister for Health, tried to desperately hang on to what he said was going to be a more comprehensive review of our Health Services. He first said this to the Ombudsman who published his remarks in his annual report of 2001. There were already a lot of criticisms mounting about the many problems existing within our Health Services, so I believe that the second Minister for Health informed the Ombudsman that another review was on its way, in order to get him off his back. After all these years, today we continue to ask ourselves the same question all over again. Has the latest review produced any substantial improvements? All the evidence suggests that, as with all other reviews, it has not. What it has certainly produced is a huge expenditure of nearly £2 million by the Government. Therefore, the Hon Mr Britto's situation today is no different to his predecessors and during the course of my contribution I will be highlighting some of the more important problems that still exist within our Health Services.

At this point, I would simply like to remind the Chief Minister that two years ago he said that improvements were imminent and that no longer would I be able to continue criticising the Government. Well, this is something that has also been said by my colleague the Hon Mr Charles Bruzon. What is imminent for the Government? For a number of years I have been saying that the Government's machinery for spin and propaganda was getting rusty. Today I am convinced it is no longer getting rustier, it simply does not work any more. It is a question of how long one can continue fooling the people all of the time. So more and more people are taking whatever this Government promise with a pinch of salt, and they do so because for years they have been subjected to very impressive announcements about their commitments, about how imminent they are, as if they were just round the corner. There is a Spanish saying which describes the GSD very aptly. "Van a paso de tortuga". Who can blame anyone for now turning a deaf ear to all the constant propaganda the Government dish out practically on a daily basis? The public's patience has by now been exhausted.

So, as far as our Health Services are concerned, the people of Gibraltar are now not only convinced that the Government have not been successful in redressing their decline, but they are as convinced as we are that they will never be capable of it. We have repeatedly been hearing from the Government about the different phases of the mother of all reviews. About the new concept of scheduled surgery, about yet another complaints procedure, about yet another new bed management system, when previous ones have been a complete fiasco, about the transfer of St Bernard's to the Europort Building, but the important question to ask ourselves, as I have said earlier on, is in which state are our Health Services today? That is the important question. Nine years down the road and are they any better now? The Government have been saying for years that the new hospital was going to bring about important improvements to our Health Services. Now we are told by the Minister that we still need a couple of years to see those improvements.

Since the opening of the new hospital, five months have now elapsed and the problems that are brought to our attention regarding our Health Services are not only those which existed previously when the hospital was housed in the old St Bernard's site – but in addition, there are new ones which have cropped up at Europort. So, we were correct in our analysis. For years we have been saying that the problems raised by us in this House, and those which we have been dealing with in our offices from complainants that have come seeking our assistance, had nothing to do with the structure of the buildings of the previous hospital and therefore, its transfer to Europort was not going to be the cure. The problems have simply migrated to Europort and now to make matters worse, as I have just said, we have new problems which have emerged as a direct result of the choice on the part of the Government to house St Bernard's at Europort, which were buildings specifically designed for offices. Again, something we always kept warning them about. It is quite obvious that when so many modifications have to be carried out to buildings which were specifically designed as offices to convert them into a hospital, problems are bound to emerge, and they have. Just to give one example at this stage, only last month in Captain Murchison Ward a wall fell down on a patient, injuring him whilst he was showering sitting on a special seat. As a result the plaque holding the screws hit the patient on the back and he sustained several injuries. A horror story, and why did this happen? Because the seat was fixed onto a plaster wall instead of a concrete one. I have brought some photographs with me which were given to me by a patient who took them when he was an in-patient at the ward where the incident occurred. The photographs show the collapsed wall and the plaque and the seat on the floor. Mr Speaker might like to see them and I will show them. The reason why I have brought them is because I do not want the Government to do what they always do. That is to say, that I am either exaggerating or that what I am saying is not the complete truth. So, these are the photographs of the collapsed seat on the wall, the collapsed wall as well, everything collapsed. The wall was a plaster wall, and here are the bolts attached to the actual frame which injured the patient. These are the photographs. I think

they are very clear but as usual I bring them because I know that the Government always try to minimise the points and the problems that we highlight. But we will not be making any reference to the name of the patient, we only do this when we have the permission of the family. These photographs prove that we are not simply dealing with teething problems. Well if a teething problem is a wall collapsing on a patient, the seat, the wall.....

HON LT-COL E M BRITTO:

Point of order. Point of fact. The wall did not collapse, the hon Member keeps talking about the wall, a seat came off the wall. Let us get our facts right.

MR SPEAKER:

It is a matter of interpretation. Let the hon Lady carry on.

HON MISS M I MONTEGRIFFO:

It is a matter of interpretation but I thank Mr Speaker. In any case, this is proof of what we have been saying, that the problems are not teething problems. I say this because when we first highlighted some of the problems regarding the buildings at Europort in mid February, soon after the hospital opened, the Government had the cheek to say that the problems we had highlighted were teething problems, they continue to say that they are snagging and teething problems. The Minister is wrong, they were far from being teething problems and let me assure the Government that the problems at Europort are not perceived by the people of Gibraltar as being teething problems. A lot of people have told us, jokingly, that the problems are better described as gingivitis, a gum disease which if not treated properly all the teeth start falling off one by one until there are none left. We are also told by many

people in the streets, that like an old Spanish saying Europort is simply the same dog but with a different collar. On top of it, even the collar in this case is not the right one and the Government are trying as best as they can to hang on to the leash.

Now, just to give some background information, two years ago during my budget contribution I mentioned over 30 areas of our Health Services where problems existed. I gave a very comprehensive analysis of each and every one of them. Why? Because the Government first started off by saying that we were inventing the complaints. They then went on to say that we were exaggerating them, then they said that the problems were the usual daily ones occurring in all hospitals. Eventually, when they run out of excuses, they blamed the patients. They said they were too fussy. Time has proved that our analyses not only coincided with what the patients were saying, but also with what the Ombudsman and other public entities were saying. Indeed, the Health Care Development Team report also vindicated our analysis, and they did so by just telephoning 1,000 residents of Gibraltar in order to seek their views, and everyone expressing their views coincided with everything we were saying. Then, in the run-up to the last General Elections, GBC made public the summary of the Health Care Development report of September 2003. They said it had been leaked to them. The Government, after the Elections, refused in this House to answer questions as to whether or not they agreed with the criticisms made in the summary and then in the full report. We still have our suspicions as to the Government's intentions had the summary not been leaked to GBC. But at that time the Government still continued to blame others for their failures. On this occasion they hit at the staff of the Gibraltar Health Authority and gave them very severe warnings. Ironically, they happened to be the very same staff who had been there pre-1996, the very same staff who had been praised by the UKCC and the University of Sheffield, and the very same staff who were there in the good old days when the situation was like heaven, compared to the hellish situation that developed soon after the GSD came into office.

Let me say at this point, there are not only problems at St Bernard's Hospital, there are problems in practically all of the departments within our Health Services. There are also many complaints being voiced by the public in connection with the Primary Care Centre and the KGV Psychiatric Unit, which the Minister himself has confirmed today. One only needs to read letters to the Editors of the press to also learn of these problems. One particular user of the Health Centre just a few months ago, compared it to the "Hell" Centre. Again another example, a user wrote a letter to a local newspaper saying that if she wished to hear musical songs over the telephone, it was cheaper to go out and buy a record rather than being frequently subjected to waiting on the line for minutes on end, and still she was not getting a reply. So as far as the new appointments system, both over the telephone and over the counter, the public at large is still unhappy with the situation at the Health Centre. Nine years on.

Going back to November 2003, as I have said, the Government used the GHA staff as their scapegoat, management, medical and nursing. They were either incompetent or their practices were out of date, that is what they said. Excuses and more excuses. I remember bringing to the House two years ago letters I had received when I was Minister for Health, both from the UKCC, the highest nursing authority and from the University of Sheffield, praising our nursing staff in all respects. Well I am afraid I have bad news for the Government because their tactic of blaming the staff has certainly backfired on them. The staff are very upset with the Government. Unquestionably the morale of the staff working within our Health Services, and they themselves have said it publicly on more than one occasion, is today and has been for a number of years at an all time low. That is why last year during my budget contribution I decided to go through the whole list of measures and policy decisions taken by the Government which had nothing to do at all with the staff. I gave specific details of all the measures introduced by the Government which had led to a deterioration in our Health Services. They were totally unrelated to the staff. Yet, when the

transfer of St Bernard's Hospital to the buildings at Europort was completed, the Government resorted again to their usual tactics of spin and propaganda. They were very quick in issuing a press release saying what a success the transfer had been, and the Minister today has again mentioned the fact that the staff were efficient, they showed dedication and professionalism. What hypocrisy. They were previously blaming the staff and then they were saying how good the staff was. We were then told by many members of the GHA staff how upset they were with the Government after they had read the press release. The staff are generally of the opinion that the Government hit at the staff when it suits them, and when it does not they praise them. The staff are right in thinking in this manner because the Government are so arrogant in their approach that they sometimes completely forget the sensitivities of those who are in the front line. Let me remind the Minister for Health what the Health Care Development Team Report of 2003 said as regards the staff of the Gibraltar Health Authority. "If changes are not made, it is likely that staff morale and motivation will decline, and this will have a negative impact on the performance of the quality of patient care." So we are still being told by many members of the GHA that the staff morale is at its lowest ever within our Health Services.

I think it is pertinent to remind the House of what I have publicly said on many occasions, that all Governments in all democratic parliaments are responsible for what happens in each and every one of their departments. I will never tire of saying this. It is the electorate who measure the performance of the Government, they do not vote in an election to measure the performance of the Civil Servants. The Civil Servants are there to put into practice the policies of the Government of the day, irrespective of their political beliefs. They are not responsible for any measures or policies implemented by the Government of the day. Indeed, I wish to remind the Chief Minister at this stage, even though he is not here perhaps he will be told, what I have previously said in this House. Before I continue, it strikes me that the Chief Minister does not really like hearing my speeches, it could be one of the reasons why he is not here today. The

Chief Minister said straight after the last General Elections, in fact he did not say, he admitted that his Government had been reprimanded by the electorate because of the health service and also because of Housing. On Thursday he again admitted his Government's failure on housing. Well, more and more patients are seeking private treatment abroad, and more and more people are seeking private accommodation in Spain, and more and more people are asking themselves the same question. Is this a deliberate ploy by the Government? I remember also telling the Chief Minister that if nothing significant occurred to redress the situation soon, the reprimand could be greater the next time round. So, in order to ascertain how the situation stands today, is to assess the numbers and the nature of the complaints that are brought to our attention by the users of our Health Services. I can assure that today more and more people than hitherto are coming to see us, both for advice and for assistance with all sorts of problems, irrespective of the fact that we now have a third Minister for Health, irrespective of the latest expensive review, irrespective of the new complaints procedure, irrespective of the new state of the art hospital, irrespective of all the new posts that have been created and irrespective of all that the Minister has had to say today.

I would also like the Government to know that we are now being approached by more patients than hitherto, who tell us that they have voted for the GSD but they tell us that they have now reached the stage in which they are completely disillusioned with the manner in which the Government have handled and continue to handle our Health Services. They say that they have realised that the new hospital has not got rid of the problems. Whether they abandon the GSD ranks is another matter, but we certainly see everybody irrespective of their political ideologies. Whatever I say in this House I say in the knowledge that I know I can always back my statements with tangible proof. So whenever all sorts of accusations have been levied at me by the Government in order to try and discredit me, I have subsequently brought the relevant evidence to this House, or quoted from either Hansard or from public interviews in which Government Ministers have appeared. This year is no

exception as again I will be quoting from Hansard and from various public statements made by the Minister for Health, the Hon Mr Britto. I do my homework very carefully because for years I have been in this House and I have seen how this Government works. They resort to either personal insults or to ridiculous statements in order to try and counteract any criticisms against them.

Let me now point out that the present Minister for Health, did acknowledge everything we have been saying for years about the unhealthy state of our Health Services. He did so publicly nine months after taking on his portfolio. However, what his motives were are questionable, certainly, previous Ministers for Health were saying the very opposite. It could well be that the Hon Mr Britto did so either because he could no longer sustain a different position and he wanted to save his skin, who knows. However, whether he is prepared to take full responsibility for them is another matter, since the Government have always pinned the blame on others. So, the Hon Mr Britto, in a GBC interview on 16th August last year, talking about the new management structure for the GHA – this was when the Government got rid of the Gibraltar Chief Executive of the Health Authority, and contracted an outsider paying him a salary of £106,000 a year – the interviewer asked the Minister the following question: “You agree that the service is not up to standard?”. The Hon Mr Britto started off by being very cautious, saying that they could be better. But the interesting reply came when he was further pressed by the interviewer and then he said: “There are many parts of the services which I hear complaints on a continuing basis”. He also said the Government had decided to shake up the Health Services from head to toe. We know now the love the third Minister for Health has for using phrases like, for example, comparing apples with apples, that he is going to shake the services from head to toe. Well I am afraid that the apples he keeps referring to are somewhat rotten, they are off, they are smelly, and the shaking up to now does not seem to have gone further down from the head, and I doubt it will ever get to the toes. The Hon Mr Britto made another interesting statement during his budget contribution of last year

in April, four months before the GBC interview. I quote again, "all aspects of the Health Service, including all the issues raised last year by the Opposition Member, are being addressed as a result of the work being carried out by the Health Care Development Team in the Review that is taking place." So after everything the Government had said during all the preceding years, that we were inventing the problems, that we were exaggerating them, the third Minister for Health suddenly recognises the fact that we were neither inventing the problems or exaggerating them, because he said that those we had raised were also being addressed. But they have not been addressed, so naturally I am still convinced, especially after what the Minister has had to say today, that we are a long way from the problems being addressed, as he assured us last year. A further interesting point about the Hon Mr Britto's statement, is that he says that all aspects, including those raised by the Opposition Member, which can only mean that he is admitting that there are even more problems than all of those which we had been highlighting since 1996.

Now I turn to yet another statement made by the Minister during an interview, also in GBC, this time at the beginning of last year. Then he said that he would take full political responsibility and he would put his head on the chopping block if he was unable to achieve his goals by the end of the year. That was the end of the year 2004, about a year after he had been in office. Well, he has missed his goals, today he has said we need more years to see the improvements come on stream. The Minister, when he was previously responsible for other departments, used to make statements which we thought were also too optimistic. But to have used a phrase and given himself only a year after which he was prepared to put his head on the chopping block, is very nearly tempting suicide. It is quite a dangerous thing to say, especially in the field of politics when every four years the electorate have the chopping block at their disposal. So the third Minister for Health should not have any illusions that he has done better than his predecessors, because the problems he was referring to then still exist today. I am inclined to believe that the Minister made those optimistic statements because he

was convinced that the hospital at Europort was going to save his skin. His powers of clairvoyancy are not very good either. The Hon Mr Britto also knows that today we even have the very new extraordinary situation that people are coming to our offices to see me, even after they have seen either a member of his management staff, either the new Complaints Coordinator, or they have seen the Minister himself. There are even instances when they come to see me first asking for my assistance, then they also wish to see the Minister so that he knows about their complaints and concerns, and then what happens? Incredibly, quite a number of them still return to our offices unsatisfied until their problems have been resolved. But we always comply with their requests. It is not a question that we are trying to score political points in using the patients to our advantage, as the Government sometimes allege. The patients know that we do not coerce them in any manner or form, otherwise we would not be seeing so many. Therefore, they come to see us because they know that what really matters the most to us, is that at the end of the day we have been instrumental in helping them. When people are told that they are suffering from a certain disease or that they need a surgical intervention, be it routine or otherwise, they deserve to be given all the time in the world to alleviate their concerns and the enormous stress they go through. Then, if they ask us to issue a press release on their behalf we do so, and if they ask us that after explaining their complaints they wish to see the Minister as well, I write to the Minister informing him of their requests. That is what democracy is all about. But we are pleased that we have continued to bring to the notice of the Government as well, many situations and incidents that at times they were not even aware of.

I will start with statistics. I know the Minister on this issue started by saying that one had to compare apples with apples, when I brought to his attention certain discrepancies with statistics appearing in different Government official documents. During exchanges we have had in this House he has distinctly said that he is not too concerned about figures, he has said that he has better things to do. Well, Opposition members

completely disagree with him. We ask for statistics in this House not for the fun of it. It is very important to know for example, how many people are accessing our services in different areas. These figures determine for example, how many beds are required, how many nurses, how many doctors, indeed they give an accurate indication with regard to all the resources that are necessary to run our Health Services efficiently. In this House the Government have given us the figures for different months and years, on for example, in-patient admissions, out-patient clinics, GP clinics and others, and when we have then looked at those published in the official Government Statistics Report and those published by the Health Care Development Team in their Report, none have coincided. More so, there have been instances when I have asked the Government to provide me with figures for x number of years for in-patient and out-patient figures, both for St Bernard's and for the Primary Care Centre. They have not even coincided with the figures that were previously given to me in this House by the second Minister for Health. It pleases me though, that the Government have tried to correct the situation, because the latest Government statistics that have been issued have an asterisk saying that the figures now include other clinics which had hitherto not been included. Even though not all the figures in this report are the same as those provided to me in this House, at least it is a start, which is a lot to say about this Government. I am glad that my homework has produced some results.

Another issue which we have brought to the attention of the Government is that of accommodation for personnel on contract. We first raised this matter in Question No. 814 of 2004. We were told that expenditure in accommodation was under Subhead 22. We asked for the final figure for the financial year 2002/2003 and in the forecast outturn for 2003/2004. We were only given the figure for 2002/2003, which was £219,692. I remember that the Chief Minister himself said during supplementaries then, that he thought this figure was high and that he would be taking an interest in the matter. Naturally, we continued asking the same questions in subsequent meetings of

the House and we still did not get the information we asked for. By then we also wanted to know the forecast outturn for the financial year 2004/2005, this time under Question No. 2160, again, the same story, we were not given the information. It was not contained in the schedule that the Minister said he was handing over to me. The reply from the Minister when I pointed out the omission was, "the hon Member will appear to be correct, it seems the answer may have fallen off the back of the computer somewhere. I will supply her with the answer in writing. It is not an intentional omission on my part". This proves that he does not seem to be interested in checking the replies he is given by his department for meetings of the House. After that meeting I decided to check with this House in case the schedule that had been passed over to me had a page missing. I was told by the staff that they would check with the Gibraltar Health Authority. Soon after I was informed again that the reason why I had not been given the figure was because the GHA was busy preparing a report for the Chief Minister on the question of accommodation, it was also confirmed that this information had been given to them by the Gibraltar Health Authority. I then contacted the staff of the office of the Minister for Health and the answer I was given was that the figures I had requested had been inadvertently left out in the replies to my questions, but that it would be provided to me by fax. I reminded this member of the staff that the Minister had also promised to write to me giving me figures. By the time the last meeting of the House was called for on 18th April, months after, the figures had still not been provided to me. Therefore, I had no option but to put in yet another question on the matter. I did so under Question No. 130 of 2005. Bingo, the figures were finally provided in answer to this question. Third time lucky, and after having asked for them continuously for a period of six months.

The reply given to Question No. 130 of 2005, which now asked for the final figure in the financial year 2003/2004 and the forecast outturn for 2004/2005, as we suspected, showed that since 2002/2003 there had been a substantial increase up to the forecast outturn for 2004/2005. The Chief Minister already

thought the figure for 2002/2003 was high. For example, for the year 2002/2003 the figure was £219,692, for the year 2003/2004 it was £329,969 and the forecast outturn we got for the financial year 2004/2005 was £387,000. So, in view of these increases, we then decided to ask the Government what type of private accommodation the GHA was renting for contract personnel on the issue of contract personnel, which is another area on which we have expressed grave concerns and on which I will be dealing with later on. As soon as I was handed the schedule and I looked at the flats being rented by the Gibraltar Health Authority for both the medical and nursing staff on contract I could not believe my eyes. The answer to Question No. 2147 under private sector accommodation, I detected that flats were being rented in Montagu Gardens, in Harbour Views and in Westview Park. I asked this question in the meeting of December 2004. It is a very well known fact that in these Estates no one is allowed to rent because they are low cost houses. In fact, whenever the respective management companies get to know that renting is taking place, they take immediate action and the individual renting has no other option but to vacate the flat. It is a condition stipulated in the underlease. So I was completely dumbfounded by the initial reaction from the Minister. The answer I got from him, which made matters even worse, was to plead ignorance on his part. He said the following, "I am not familiar with the terms of Harbour Views and I assume that this is a private letting that has been rented". The Hon Mr Britto must be about the one and only person in Gibraltar who does not know that in these housing estates renting is not permitted. Moreover, is it that everyone in the hierarchy of the Gibraltar Health Authority is as ignorant on the matter as the Minister? It is all very mind-boggling. In further supplementaries the Minister then said that he would not provide me with any further information as regards the renting by the GHA of flats in Harbour Views, Montagu Gardens and Westview Park. He said he would investigate whether the GHA was in breach, and if it was he would arrange for the situation to be put right. Now we see how the Minister tries to save both himself and the GHA from a sticky situation, because he says, "if there is a breach, it is a breach of the

owner of the flat who is renting in breach of his underlease". Here he lets the cat out of the bag. He comes up with an answer which most definitely proves that the Minister was not as ignorant as he initially said he was. He then went on to say that he would certainly not allow the GHA to be a party knowingly to the breach, that he hoped we should realise that he does not sit down and work out all these addresses. Again he said "I have better things to do, they are compiled for me". The same old excuse. But he said he would take note of what we were saying and that he would check. Again, here we have another example which proves that the Minister for Health does not bother to read answers that are given to him by his department. Well I wonder what would have happened to him if for example he had given such replies in answers to questions in the House of Commons, for example. He would have been lynched.

On 18th May, in the last meeting of the House, I put another question on the matter to be able to ascertain what action, if any, the Minister had taken to rectify the situation. I did so under Question No. 132. This was the written reply given by him: "The Government have not confirmed that the GHA have been renting properties in respect of which the lessor is in breach of the terms of the underlease. The GHA contracts with estate agents when renting private properties". Now the estate agents are brought into the whole mess. I continue to quote: "Ensuring that the lessee is acting in compliance with the terms of the underlease is the responsibility of the lessor and not of the GHA". What a cheek. More and more smokescreens, because clearly it is an inescapable fact that the GHA are being a party to a breach. It does not matter who is committing it, what matters is that the GHA are condoning the situation and so are the Government. That is what matters. Then in answer to Question No. 131 this year, we also asked for the names of the owners of all the private properties rented by the GHA as from the year 2003. Again I quote the Minister's reply: "At the time contracts are signed, the GHA has never obliged estate agents to provide details or the names of the owners in respect of the private properties that they lease. On receipt of the hon Member's question, the GHA have requested this information from the

estate agents concerned. They have provided it to the GHA but on a confidential basis. I am therefore unable to provide the information to the hon Member". In supplementaries the Chief Minister tried to put an end to the matter by saying that he would tell the GHA to be more careful next time when renting property. What a load of nonsense. The Government and the GHA knowingly have condoned a situation which they know is in breach of the underlease. Apart from all the smokescreens, what stands out clearly in the last written reply given by the Minister for Health is the fact that he confirms that it was due to the receipt of my question that the GHA requested the relevant information from the estate agents concerned even though they and the Government already knew from the question I put back in December of last year that the GHA was renting flats in estates contrary to the requirements of their respective underleases.

Now I turn to the question of contract personnel, a matter on which we have also expressed concerns. For years, again for years, we have been raising the issue of contract nurses in this House. We have been warning the Government on the adverse consequences of employing so many of them. When I first raised the issue with the present Minister for Health in October 2004, and I told him that if the trend continued the GHA could be ending up with more people employed from outside than people employed from within Gibraltar, this was his reply. He said: "I agree". Through further questions in this House we were also able to ascertain that today, once one employs a contract officer, during the period of contract he or she acquires rights as those employees employed on a permanent and pensionable basis. Therefore, they can apply for promotion, or be eligible to be sent to the UK for further studies. The Government indeed confirmed that our analysis was correct, as they also confirmed in answer to another question which we put in this House, that they had already sent a contract officer to the UK for training. This situation not only affects the chances of our own people in seeking employment within the GHA, but it also affects the chances of those already in employment being able to progress up the ladder. It also has a direct bearing on the previous issue

I have raised, that of accommodation, and therefore bringing nurses from outside also means that the Government have to fork out more money. So this issue has a series of adverse snowballing effects. Both the Hon Mr Britto and his predecessor, the Hon Dr Linares, have said in this House previously that they have taken note of our concerns. They have both agreed with us, but what action has been taken? Because today the situation remains as it was when we first raised the matter four years ago. The last question I put in this House was in April of this year, and the answer shows the figure has not decreased. It shows the GHA still employs 49 contract nurses, and the Chief Minister has the audacity to say about our Health Services that there are 52 more nurses, out of which 49 are on contract. So until we see some improvements on the outstanding problems we bring to the notice of the Government, we will continue to raise them for as long as they remain unresolved. That, in effect, is one of the roles of Oppositions and if we did not continue to raise these issues, we would be failing in our duties.

I now turn to the GPs on contract, something the Minister has mentioned today. During the meeting of December last year, talking on the question of the new policy announced by the Minister of bringing out external assessors to renew their contracts once they expired, the Minister for Health again got his underwear in a twist. In supplementaries the Minister said this was a new policy but it was the GHA who was responsible, and I will quote what he actually said. "This is the GHA doing its own thing at management level, this is not a Ministerial thing". Then we asked, "presumably the policy decision then has been a recommendation from somebody, that has been accepted at a political level, is this not the case?". The Minister replied it was not a recommendation given to the Government. The GHA management had done it and he had accepted what they had done as Chairman of the Authority. We assume the Chairman is answerable to the Government. The Hon Mr Britto continued by saying, "in future people and doctors are no exception, contract officers will be required to meet the levels, the standards expected of them." So naturally, in further supplementaries, we

asked whether the Minister was then saying that the recommendation that he had received and accepted as Chairman, only applied to GPs and consultants and that for example, none of the 49 contract nurses had to meet any performance targets to have their contracts renewed. The Minister did not know the answer to that question then, even though he had said originally that the new policy applied to all contract officers. As usual, he did try to avoid another punch by saying that the question was on contract consultants and contract GPs and, "I have given the answer", he said. But when the Leader of the Opposition told him that all we wanted to know was whether in fact there is one set of rules in terms of contract officers who are GPs and consultants, and a different set of rules apply for other contract officers in other spheres of employment, or there is one set of rules which applies to both, the Minister's reply could only be either "yes, there is one set of rules", or "yes, there are two sets of rules", or that he simply did not know or did not want to tell us. That was what the Hon Mr Bossano asked the Hon Mr Britto, which are perfectly legitimate questions in view of the statements made by the Minister. But, after all the Hon Mr Britto had said about the new policy affecting all contract officers, he ended the debate by saying he would need notice because we had now widened the question. What a cheek again, but was it not the Minister for Health himself who had widened the question by emphasising on two occasions that the new policy affects all contract officers? The third Minister for Health has ducked so many times in this House, that if we were to compare the situation to boxing, after so much ducking, he would have ended up on the floor knocked out several times over. The punches, as usual, being above the belt and not below.

Another issue which we raised and on which the Government and the GHA again pleaded ignorance was in connection with the Orthopaedic waiting lists. The famous or infamous orthopaedic waiting lists. We issued a press release on the matter on 25th February this year but we never got a reply from the Government. The Health Authority issued a press release which was full of propaganda and poor excuses. The

Government, again, passed the buck to the GHA. The GHA's press release was dated 3rd March 2005, but they very conveniently made no reference at all to ours. They answered as if we had not raised the issue at all, and as I have just said, it was full of spin, propaganda and ridiculous arguments. So we could only come to one conclusion, that the contents must have been prepared by the Government because it totally befitted their style. I will give the reasons why we issued a press release on the matter. At the beginning of this year we were approached by several patients complaining that they had received by post out-patient appointment cards to see the orthopaedic surgeon, in which this department confirmed that the referral letter from their respective GPs had been received. It went on to say, I quote, "the waiting time is between 12 and 18 months". This waiting time referred to an out-patients appointment. I continue to quote, "and therefore you will be receiving an appointment nearer to the date of your actual appointment". This is what the card said. However, one of the patients concerned was so appalled that she instructed her family to approach us. This they did during the middle of February. They did not only wish us to bring the situation out in the form of a press release, but they also wanted the public to be aware that their mother, quite an elderly lady, would need to wait for over one and half years just to see the consultant. They also hoped the press release would have the effect that the Government would take remedial action. Well, for a start as I have said, they did not even reply. Now I come to their answer, an answer that could well be included in the Guinness Book of Records as being the most ridiculous of all smoke screens. The press release started off as follows: "Now that the GHA and its staff have successfully completed the move to the new hospital, the GHA management will now push ahead with the already announced plans to expand and improve services, initiate new services, to eliminate waiting lists and to introduce a scheduled service for elective surgery". For a start, scheduled surgery was first announced by the Government in July of last year, 2004. If the GHA say in their press release in March of this year that it is now their intention to push ahead with already announced plans to improve services, initiate new services et cetera, the pushing

has come very late and it will take a giant like Hercules to come up with a really good push. Again, more and more of the same spin and propaganda. The GHA then went on to boast about further recruitments and they said that interviews for a second consultant orthopaedic surgeon were under way. Here we have another example of how long it takes this Government to deliver on their commitments. That the GHA should inform the public on 3rd March this year that a new orthopaedic surgeon is being engaged, like the Minister has said today, is nothing new since the Government in their manifesto of the year 2000 said, I quote, "a second orthopaedic surgeon will be appointed, thus further reducing waiting times for operations". Five years ago there was a tacit admission by the GSD that there was a long waiting list and therefore there was a need for a second orthopaedic surgeon. Five years ago they said that and nothing was done during all of this time, and this Government have had the cheek to repeat the same commitment time and time again, and it has taken them a period of five years to fulfil the commitment. Five years, how can the hon Member opposite, the Hon Mr Britto, boast about a second orthopaedic surgeon today when his Government promised it five years ago? Unfortunately, all of these years have meant that patients have been subjected to unnecessary suffering, in a lot of pain and in a lot of distress, and not being able to have their required operation performed within a reasonable period of time. I have seen a lot of these patients in my office, telling me they have been waiting sometimes for five years for an operation. I know the Minister has also seen them and no doubt he has also seen others that have gone to him directly. Again, yet another example of what we always say, that the Government do not care when or if they fulfil their commitments. The Chief Minister last month, when interviewed by GBC on the question of housing, said that the Government when they promise something they have a full term in which to deliver. Well, all I can say is that many, many of their promises have most certainly not been delivered within one term of office, that is, four years. Some of them have not been delivered within two terms of office and others have been put on hold. Certainly their manifesto commitments are simply not worth the paper they are written on. But to finish with the

famous press release issued by the GHA on orthopaedic waiting times, what did the GHA finally say in the last paragraph? After so much propaganda, clearly trying to minimise the importance of the real issue at stake, in the last paragraph they suddenly change their tune and talk about the orthopaedic waiting lists, but they did so giving the impression that they had touched upon the subject as a mere afterthought, as if they had issued two press releases and stuck them together. That is how it read. This is what they said in the last paragraph: "The GHA regrets any confusion and misunderstanding which may have arisen because of the communication received by patients notifying them of a waiting time of between 12 to 18 months before they are seen by the existing orthopaedic surgeon. This communication was issued by the Orthopaedic Clinic without its contents being brought to the notice, or receiving approval of the GHA Senior Management, and does not take into account the changes that are being brought about in working practices in the new hospital as a consequence of the introduction of a day surgery: Again, they repeat the employment of a second orthopaedic surgeon. However, the GHA confirmed that the effects of these changes are currently being assessed, but the full impact will not be felt until the new orthopaedic surgeon takes up his appointment after the period of notice required by the present employer. Well, I believe that the Orthopaedic Clinic was not wrong in pointing out to its patients that appointments were taking from 12 to 18 months at the beginning of the year, because the GHA was saying two things and two things only. They did not deny the fact that the waiting list given by the department was wrong. Firstly they said the card had gone out without the permission of senior management, and secondly they said that in months to come the list was bound to come down because a second surgeon was being recruited. For as long as the Government continue to make a song and dance about the recruitment of a second orthopaedic surgeon, I will continue to remind them that they said they would do so in the year 2000, five years ago. In any case, we were pleased that we were able to highlight another problem within our Health Services, and the official answer given implies that neither the GHA nor the Government were aware that patients were

receiving such appointment cards. Another case of effective Opposition. It appears that we, the Opposition, knew what was happening before the GHA, the management or the Minister for Health knew. I think it is now an appropriate stage in my contribution to talk about waiting lists in all specialties and the supposed new effective concept of scheduled surgery, about which the Minister for Health has given so much publicity to.

Let me start by saying that waiting lists shot up to unprecedented levels soon after 1996. We have kept monitoring the situation and there has been no dramatic improvement, even as I speak today. In past years I have given examples in this House of how the waiting lists have been increasing. Now I will describe how the situation stood soon after the Hon Mr Britto took over his new portfolio, just after the last General Elections, and how it stands today. Of course, the figures that I will mention are those given to me by the Government in this House. In May 2004, just about a year ago, the waiting lists were as follows:

General Surgery	Up to one year
Orthopaedics	From weeks to years

(Let me remind the House that in orthopaedics, the Health Care Development Report says from months to years, but it does not matter, I think that is another smoke screen, we are talking about years not weeks).

ENT	18 to 20 months
Gynaecology	8 months

If we look at December 2004, seven months on, the situation was as follows:

General surgery	Up to one year
Orthopaedics	From weeks to years
ENT	24 months
Gynaecology	12 weeks

So, with the exception of gynaecology, waiting times for general surgery, and orthopaedics remain exactly the same, with ENT increasing by four months. Now let us look at the latest situation, the answer given by the Minister for Health this April:

General surgery	Up to one year
Orthopaedics	From 2 weeks to years
ENT	24 months
Gynaecology	12 weeks

The situation remains exactly the same. As regards the number of persons waiting for elective surgery in each specialty in December 2004 the figures were the following:

In ENT	153
In General Surgery	129
In Ophthalmology	20
Orthopaedics	404
Gynaecology	44

In answer to Question No. 85 of 2005, this April, the figures stood at:

ENT	189 (an increase)
General surgery	110
Ophthalmology	48

(Of course, let me remind the Minister that when he blows his trumpet about the fact that cataracts operations had been tackled with, he did this, an exercise just before the date of the Elections. Why? Because they did not need extra theatre space, and they could have done this years and years ago)

Orthopaedics	347
Gynaecology	76

Which means that in December 2004, there was a total of 750 persons waiting for elective surgery. Two months ago there were 770, increasing again. If we look also at the public clinics

for out-patients, the situation has remained exactly the same from December 2004 to April of this year. If we look at the answer given by the Minister for Health to Question No. 2215 of December 2004 and compare it to the answer he gave to Question No. 71 of 2005, there we have the proof of what I am saying. In any case, the real important issue here is that if one looks at the waiting lists of the Hon Mr Britto's predecessors, which I mentioned in my last year's contribution, the overall situation is worse today than it was in 2001.

Still on waiting lists. I now wish to go back to July of last year. On 27th July, when once again we were all subjected to more spin and more propaganda, this time on the question of scheduled surgery. The Government issued a press release saying that they had received and accepted the Review Team's third recommendation, which relates to the elimination of the backlog in waiting lists in all surgical specialties, and the subsequent introduction of a system known as "scheduling" and obviously as "scheduled surgery". Well, they said that scheduling surgery is based on the principle that the GHA and the patient book a time and date for surgery convenient to the patient, something the Minister has mentioned in this House on several occasions. The new scheduling service for surgery will commence in gynaecology in October. That was in the year 2000, it will be introduced in other surgical specialties, that is, ophthalmology, general surgery, urology, orthopaedics and ENT in early 2005, following the move into the new hospital. I now come to the important part of the press release which then says, I quote, "After the backlogs have been eliminated" (something the Minister has said today) "and the additional operating theatre capacity and beds of the new hospital have come on stream". So a year ago the Government were giving publicity to something that might materialise about two or three years further down the road, and the Minister has confirmed this today. So we are quite accurate in our statements, that it takes years for the Government, for their commitments to materialise after they have promised them years before. The press release ended by saying that the Minister for Health had the following comments to make. "We are now at the more exciting stage

where visible, real improvements to the quality of our health care and services will become noticeable. The aim of the new surgery scheduling services is twofold. Firstly, that it should be more patient friendly by taking into account the date convenient for the patient. Secondly, by the elimination of all backlogs of waiting lists and thereafter an operating system that will ensure that patients do not wait more than four weeks for an out-patient appointment with consultants and eight weeks for planned surgery. When the system is fully up and running it will represent a massive improvement to the quality of service delivered by the GHA". Remember that these comments were made in July 2004, last year. So as soon as the next meeting of the House came up in October 2004, I put a question on the matter. Naturally, I wanted to know more about the third recommendation of the Review Team which relates to the elimination of the backlog in waiting lists in all surgical specialties, and I wanted to know more about what sort of impact the introduction of the new scheduling system had had in gynaecology, especially since the Minister for Health had said last July that we were at the stage of visible, real improvements. However, three months after the press release was issued in July of last year, the Chief Minister said in answer to a question on the matter in the meeting of this House, last October, that the main hospital based scheduling service will not come with a vengeance until we are in the new hospital, and the rate at which operations can be carried out in each discipline will hugely increase (a) by the availability of more operating theatre resources; (b) by the availability of more keyhole surgery techniques; and (c) by the availability of more surgeons to carry out these services. So the new scheduling system will not actually operate properly until all these resources are in place. The Chief Minister ended by saying, I quote him, "the procedure for the elimination of backlog that has been worked out, talks about weeks and a handful of months and no longer than that". Again, I emphasise that all these statements were made by the Government in this House in October 2004, eight months ago. Well, my argument then and today is, how long will it take for it to be properly functioning, when as I have already indicated earlier, that just over a month ago the Government told us that

there were still 770 persons in the waiting lists? I was also told in October last year by the Minister that scheduled surgery had started in gynaecology, but my question on how many patients had taken up the offer was not answered by him. The Minister for Health then said that he had not answered that part of the question because, I quote, "quite honestly it does not really make sense because there is not an offer and acceptance between bidding and buying here, the way scheduling takes place, is that patients come in and they are allocated a slot. So strictly the answer to that is that no patients have taken up an offer where an offer has not been made". Somewhat a confusing reply, because if the opposite occurs and the patient takes up an offer, all I wanted to know is how many patients have done so. That was what we wanted to know, how many offers had been made and how many of those had been accepted. So in a supplementary question I then asked that, as the Minister had said that people are allocated a slot, I wanted to know how many had taken up the slot. The Chief Minister, as usual, jumped up from his seat and replied on his behalf and told me that I had to be careful with the word "slot". Well for a fact, I did not introduce that word, it was his Minister for Health that did. I did not speak of a slot. The Hon Mr Britto spoke of a slot. By then the Chief Minister did say the following: "There have been people, I am sure that the Minister can write informing on how many people have been scheduled as opposed to written to informing". That is what he said. Well I am afraid to inform the Chief Minister, even though he is not here, that his Minister did nothing of the sort and in the last meeting of the House in Question No. 83, I specifically asked now for the third time, "Can the Minister for Health now confirm how many patients have taken up scheduled surgery?". Again he did not reply, I did not get the answer. As regards the last question I put asking the Minister for Health to confirm whether scheduled surgery had now commenced for other specialties other than gynaecology, the Hon Mr Britto replied by saying that this will be developed further with the recruitment of extra theatre staff in the next few weeks and so bringing about a further increase in theatre sessions for all specialties. More

smokescreens. To try and make out that the tortoise is sprinting like a first-class runner, can only be done by the GSD.

The House recessed at 12.55 pm.

The House resumed at 2.30 pm.

I finished my contribution earlier by saying that this Government are extremely quick in getting their propaganda machinery going to announce supposed improvements and then we find years and years go by and still nothing happens with a vengeance. The visible improvements that were going to take place, the vengeance in which it would happen, which was a word used by the Chief Minister, a couple of months ago in relation to scheduled surgery, and the couple of months it would take from last October, all these promises made by the Government are still unfulfilled. I ask myself this question, does it take millions of pounds for someone to tell the Government how to eliminate waiting lists? Any normal thinking person would know the answer to that. Either more theatres and more staff are needed to man them, or one sponsors more patients abroad in order to bring down the waiting lists. If the Government had taken the latter option, the lists today would not have increased in the manner they have during all these past years. So the Minister for Health, the Hon Mr Britto, should not be so proud in announcing again today the recruitment of more surgeons, when the GHA waiting lists have been totally unacceptable for nine years and the Government during this time could have done something about them.

I would now like to talk about the latest review. The Gibraltar Health Care Development Programme which, according to the Government, was going to shake our Health Services from head to toe, which was going to cure all its ails and which, by the way, is going to cost the Government a huge amount of money. Even though I have already made our views known very clearly in this House and in press releases we have issued on the question of reviews, all those various commissioned by the GSD Government, I wish to highlight several points on the latest one.

The NHS Modernisation Agency in respect of the Gibraltar Health Care Development Programme has now received to date, according to the Government, replying to my questions in this House, the staggering fee of just over £1.4 million. Although having looked at the Estimates we have come up with the figure that they have received nearly £2 million. However, again, on two occasions, I have asked the Government the same question twice. One question was Question No. 877 of 2004 and the other Question No. 128 of 2005, and they have not been answered. What I have asked them is to confirm how much is the expected total expenditure, and the figures I have been given relate only to the payments made up to date. So again I will have no option but to put in another question on the matter in the autumn, unless when the Chief Minister exercises the right of reply at the end of the session, he decides to give us the expected total expenditure.

We are against the review for a variety of reasons. For example, previous ones have not produced the expected improvements, the experts come from the UK where there are a lot of problems regarding their own health services, and of course, their culture and their circumstances can only mean that they are bound to use different benchmarks. I recall the Chief Minister's answer to Question No. 863 of 2004. Indeed, he went further by saying that Gibraltar is not comparable to the UK and that he kept pointing this out to the experts. Also, the Government have publicly said on many occasions that the Team will make recommendations but that ultimately the Government will decide which are those they wish to implement. Even the Minister for Health in his contribution today has said this. They will do the choosing and the picking, and knowing the record of the Government on their wisdom and judgement with regard to all their previous reviews, I am afraid that we naturally have very little faith on the final results of the latest one. I would also like to point out that the review commenced in April 2003, two years ago. However, it was first announced by the previous Minister for Health, the Hon Dr Linares, in 2001. So we have a situation that since we first heard of the review, to December 2004 when the present Minister for Health stated in this House,

in answer to Question No. 1600, that the Government expected that all their recommendations would be received by them before the end of December 2004. Three years have now elapsed, so during 2001 we have had the review drummed into our heads week in and week out. What really worries us is that those recommendations which the Government have announced they have already implemented, have not produced positive results. Even the Minister today talks about challenges for the future, so he seems to forget that his Government have been in power since 1996. He still expects people to wait for more years to see positive results. However, even though the Minister said in October 2004 that all the recommendations would have been received before December of that same year, the Minister then said in the last meeting of the House, this April, two months ago, that the Health Care Development Team reports had not yet been received regarding those areas which we have continued to highlight and which resources had also been identified as lacking by the report of the Team. They are district nursing, the dental department, the pain clinic, the KGV Psychiatric Unit, Laboratory. Mr Speaker may remember that we had a situation last year when a letter was leaked to GBC in which the Pathologist was warning the GHA that if nothing was done to improve the situation, the Laboratory Department would collapse. It even got to that stage then. The Minister today has stated that he needs two to three years before accreditation is achieved. We are not interested in accreditation, what is required is that the Pathologist and the Health Care Development Team said that extra resources are required. So, we were led to believe in October 2004 that the recommendation would have been received and still now the Government come up with the excuse that the reports are still pending. Moreover, there are even other areas which I will mention also riddled with problems. I am not sure whether it is a question of the Review Team having given up with them, whether the Government are still seeking fresh advice from them, or whether the Government are now trying to resolve the situation with their own resources. Some of these areas were also highlighted in the report of the Team of September 2003. To quote a few, the Accident and Emergency Department,

GPMS prescriptions, and here on this issue we have always stated that the Government's U-turn to allow patients to have items in a prescription after three, that is to the tune of £7.50, free of charge, has been the main cause of the expenditure of the GPMS to have risen. For years the Primary Care Centre has been opened and still the Government today, still the Minister today, has said that there are problems to resolve, that there are many, many users of the Health Centre voicing their concerns. Then we have problems again, as the Minister has said, on records, advance appointments at the Health Centre, repeat prescriptions for those patients suffering from long-term and chronic illnesses, areas in which there are still complaints being voiced by many people. Indeed, the Minister has stated in his speech that there are problems, problems that need to be resolved. They have not even been able to solve the problems that exist in the Health Centre. So we need to continue keeping a close watch to see if and when the Government are successful in resolving all those outstanding problems that have also been highlighted by the Minister today. Some of the problems again, that I have just mentioned, have existed for years. I will give one example which proves the time that has transpired without any positive action having been taken by the Government to this very day.

The Dental Service. On 17th June 2003 we were approached by some parents very concerned that they were being told that there was a two year waiting list for school children. One mother in particular told us that she was shown the list by the department when she insisted that her child required an urgent filling. When she saw the list she requested that we issue a press release on the matter. The then second Minister for Health, the Hon Dr Linares, in a press release he then issued denied the existence of such a waiting list, but then rather interestingly, he said the following: "As part of the upgrading of the dental service to children, a dental screening programme of school children has recently been conducted in the schools, and the resulting lists concerning one of the dental clinics are being updated". This, he said was the reason why the Opposition had been confused. Not that he was trying to confuse us and

everybody else. We were not confused at all. He continued by saying: "facilities in the dental department are currently being expanded to address the demand that has been identified following the dental screening of school children. These measures will result in normal waiting times for non-urgent treatments". Then, the press release continued with the usual propaganda stuff we are all by now used to hearing, which sounds good but means nothing. "The Gibraltar Health Authority is fully committed to continue to extend the high quality dental service for children". In this press release there is bluff in the form of propaganda and an implicit admission that resources are lacking.

So let us now look at what the third Minister for Health has had to say on the matter. I continued to ask questions to see what action the Government had taken during the course of the last two years. I put a question in this House, Question No. 829, which pointed out to the Government that the Health Care Development Team had also highlighted the fact that the dental service staffing and waiting times for patients were inadequate. The present Minister for Health, the Hon Mr Britto, in his reply then said that several attempts had been made in recent months to recruit additional staff in order to meet the demand. Again, admission that the staff were unable to cope with the demand. I continued to monitor the situation with another question. This time Question No. 1541 of 2004, when I asked whether it was still the GHA's intention to recruit additional staff. On this occasion I got the following extraordinary reply from the Hon Mr Britto. One which really proves this Government's constant use of delaying tactics. I quote, "The Gibraltar Health Authority is conducting a full review of dental services to determine the appropriate mix of staff and distribution of resources between the Primary Care and the new hospital. Any bid for additional resources will be considered as part of the 2005/2006 Estimates.". He also confirmed that attempts at recruiting additional staff and even a locum had been unsuccessful. More and more delays. I wonder whether the bid is indeed included in this year's Estimates of the GHA. But in any case, from 2003 up to this very day, we are still back to square one. The House

must by now realise why on so many occasions I have to continue to raise the same issues. Problems are passed on from one year to another and nothing is done. However, in the Minister's reply he makes an important statement, he says it is the GHA conducting a full review, another review. So what about the experts this time round? Why have the Government now decided to turn to the GHA and ask them to conduct another full review? Have they seen the light and realised that their departments can do a better job than expensive experts, or could it be that they have run out of money for more experts? They do that all the time, they resort to propaganda and to full reviews and experts and why? Because they are totally incapable of solving the problems themselves. That is the reason.

To end on the dental service, this is how the situation stands today. Again I have the proof here with me. I have a form that was filled-in in our offices by the father of a 12 year old child, his daughter, who came to our offices on 26th May last month. It says that in 2003 his 12 year old daughter was diagnosed as requiring braces. He recently inquired what was happening and the dental department informed him that they were still dealing with patients who are on the waiting list of the year 2001. We now have a four year backlog. This time more teething problems to be more specific. A shocking situation. We have two parents who have coincided in saying the very same thing, that the department has confirmed the very same waiting list to both of them. This is the reason why my contributions are lengthy. It is my duty to make the Government accountable for their failures and I will continue to raise such problems until they no longer exist.

Mr Speaker, now I would like to say a few things on the new Chief Executive of the Gibraltar Health Authority whom the Government have recruited. I have also done some homework on him. First of all, let me say that we have always had faith in our own people in managing our Health Services and I have made our views known on the matter quite explicitly in this House on a number of occasions. So, we would not have

recruited a Chief Executive from abroad and we would certainly not have paid anyone the exorbitant amount of money he is receiving annually, £106,000, £2,000 a week.

As I have just said, we did a search and we came up with some interesting background information on Mr David McCutcheon when he was working in Dublin, Ireland and in Canada prior to taking up his post in Gibraltar. First of all, we came across an article in the Sunday Business Post dated 11th October 1998, with the heading "Medical Boss who needs a cure for his hospital cash crisis. Name: Mr David McCutcheon, Age: 48." Again, I quote, "noteworthiness: Chief Executive of the new Tallaght Hospital in Dublin, where management consultants Deloitte and Touche are conducting an analysis on why it is running over budget less than four months after opening. Being placed in charge of a new venture is never easy and being responsible for the largest ever capital investment by the Government in the State's health care system is a tougher job than most. However, Mr David McCutcheon, who was appointed to his present position in 1996, just two years ago, has suddenly found his management of Tallaght Hospital coming under increasing scrutiny following reports of overspending. The unprecedented decision by Minister for Health, Brian Cowen, to appoint a team of management consultants, Deloitte and Touche, to conduct an independent review of the hospital's budget and service planning has resulted in questions being asked about how such financial difficulties were allowed to take place, and why McCutcheon failed to maintain expenditure within set limits." The article was quite extensive, but it is apparent that the politicians took him to task, as the article ended by saying, "the Minister would not have acted as he did unless there were questions to be answered about the hospital's finances. Members of the Board are extremely concerned about cost over-runs in the budget". It continued, "the general consensus is that McCutcheon is likely to weather the storm. There is no doubt that he is a man under pressure, but it would be a major surprise if he was to leave. However, it is possible that his wings could be clipped so severely that he has less powers than he had originally". Mr

Speaker, Dr McCutcheon did resign in April of that year and these articles also stated that the politicians were blaming him for the situation.

Now I turn to another article in the Toronto Star, dated more recently the 20th September 2004, with the headline "Top Health Official Dismissed". I quote, "the Ontario Government has fired its top Health Ministry bureaucrat on the eve of major changes to the province's Health Care system. Deputy Health Minister Phillip Hassen, recruited by the previous progressive conservative Government two years ago, was dismissed by Cabinet Secretary Tony Dean upon their return from this week's Health Care Summit in Ottawa. "I am not sure of the reason", said the top official in a telephone interview yesterday. Last week, Associate Deputy Minister, Mr David McCutcheon, the Chief Negotiator in contract talks with the Ontario Medical Association, quietly announced that he is leaving on 15th October. McCutcheon did not return a call from the Star but sources said he is taking a job running the Health System in Gibraltar". What is also interesting, is that the article ends off by saying that the \$30 billion Health Care system is struggling to contain costs, ease the shortage of family doctors and reduce waiting times for treatment in key areas including cancer, cataracts and joint replacements.

So let us see how successful Dr McCutcheon is going to be this time round in Gibraltar, where a lot of similar curing is also required. We suspect however, that as soon as he set foot in Gibraltar, his wings were quickly clipped and by none other than the fourth Minister for Health, our political supremo the Chief Minister. As he has already said publicly on several occasions, he is personally taking an interest both in health and housing, and so he will not be breathing down Dr McCutcheon's neck but he must also be heavily breathing down the neck of his two Ministers, the one for Health and the one for Housing. Both of whom could well be feeling by now that they are surplus to requirements.

Finally on Health, the last item on the agenda, St Bernard's Hospital housed in the Europort Buildings. We are now more than ever convinced that the Government have made a huge mistake in housing St Bernard's Hospital in the Europort Buildings for many reasons which we have already said in public. As we predicted, the conversion of offices to a hospital has produced all sorts of problems. We also predicted that the new hospital would not solve those problems previously existing in our Health Services for the simple reason that they had nothing to do with the structure of the buildings. Most certainly, the people of Gibraltar also do not believe that the new hospital has cured the ails existing within our Health Services. Certainly, their jaws did not drop in awe when they first saw it, something the Chief Minister said would happen some months ago in this House. However, on the other hand, I think that their jaws did drop after all but for totally different reasons, because soon after it opened they could see with their own eyes all sorts of problems cropping up all over the place. Their jaws also dropped, for example, because the CT Scan was still not operational; because the dialysis unit was still not operational; because the Cafeteria was closed; because there were no car parking spaces available for the public; because the meals are of an inferior quality and were arriving cold. Even as a visitor myself I saw water ingress in Captain Murchison Ward, in the Mortuary, rain water even dripping through fluorescent lighting, through the windows and the doors. There are still more jaw dropping problems but let us analyse the ones that I have just mentioned.

CT Scan

I want to draw attention to the answers I have been given by the Government in this House, by the Hon Mr Britto the Minister for Health. In Question No. 868 a year ago I asked the Government, 'Can Government confirm which staff will be operating the CT Scan at the hospital in the Europort Building?'. The reply by the Minister was the following: "Government can confirm that radiologist staff who are Government employed, will

be operating the CT Scan at the new hospital. Indeed, a local radiographer has been on a training course in the UK specially for this purpose and his return is due to coincide with the opening of the new hospital.” So, we then had confirmation from the Government that all was in place for the CT Scan to be operational as soon as the new hospital opened. Then in October 2004, in answer to Question No. 1567 I followed the matter up and asked: ‘Can the Government confirm whether the radiographer sent to the UK for specialist training in relation to the CT Scan in the Europort Building has now finalised the course?’. His answer was a simple ‘yes’. In April, two months ago, surprise, surprise. In reply to Question No. 104 the Minister had this to say, which he has confirmed today as well: “The CT Scanner was tested and fully commissioned prior to the opening of the hospital. It has been ready for regular use since 14th February 2005.” (So what, it has been ready for use). “The services (and this is the important bit) will be initiated as soon as a suitably experienced radiologist has been recruited”. Something he never said when asked in the question prior to the last one of this House’s Question and Answer session. It is unbelievable, the Government never cease to amaze us. Again more contradictory statements. When he says it is going to be operational soon, well, again what is soon to the Government? Does he expect us to forget that he said it would be fully operational as soon as the new hospital opened? Now let me continue with another long standing commitment, one which the Government gave in the year 2000, five years ago – the Dialysis Unit.

Dialysis Unit

In October 2004 the Hon Mr Britto’s reply to Question No. 1538 was as follows: “Negotiations are at a very advanced stage and it is really a question of drafting legal papers that is holding us up.” What I have just quoted he said eight months ago and he is there representing the Government and he is responsible for his statements. When the hospital opened the Dialysis Unit was not operational either, now he says it is going to be opened this

summer. Well the summer has already started so again and again more and more delays. Then the Minister had the cheek in his press release dated 2nd March 2005, that we were anxious to discredit the Government in relation to our claims that this Government suffer from lack of forward planning. Of course there has been a lack of forward planning on the part of the Government – with the CT Scan, with Dialysis, in many other areas. How can the Government expect everyone to keep quiet when they boast about the new, magnificent hospital when there are important areas within it which are not operating or were not available as soon as it opened? If these are not issues which prove lack of forward planning then I am afraid the Government have no idea of what forward planning means, or it could be that they simply do not care about the accuracy of their statements. All they are really bothered about is propaganda, the more the merrier.

Going back to the question of dialysis, as if it were not enough, this April in another question I asked about whether patients requiring dialysis treatment would be transported by St John’s Ambulance Service to the Europort Hospital once the facilities were operational. The Minister replied that the clinical needs for transportation to St Bernard’s Hospital for dialysis will be assessed on a case by case basis, in line with protocols currently being developed for patient transfer service provided by St John’s Ambulance. This answer proves how uncaring the Government are when it comes to the patients. Is it a question that they do not care how a patient feels after receiving dialysis, or is it that they do not know how they feel after they receive dialysis? On the other hand we see them spending millions in experts, millions in lucrative paid jobs for people whom they bring in from outside Gibraltar, and yet when it comes to the patients they pinch money from them or implement cost-saving measures from here, there and everywhere they can. Shame on them.

HON LT COL E M BRITTO:

Point of order. Is that an accusation that the Government are stealing money from patients?

HON MISS M I MONTEGRIFFO:

No, pinching.

HON LT COL E M BRITTO:

Pinch in that context is stealing. I would ask the hon Member to withdraw that statement. The hon Member has made a direct accusation that says the Government are pinching money from patients, which in anybody's language is taking money wrongly from patients or stealing. I would ask the hon Member to withdraw that.

HON MISS M I MONTEGRIFFO:

What I want to say is that the Government cannot steal money from patients. What I am trying to say is that they divert the money to somewhere else and what they are doing is that they are taking money, because they are raising measures, which means that the patients have to pay more for the service. That is what I am saying.

HON LT COL E M BRITTO:

The patients do not pay for the service. What does the hon Member mean by the patients having to pay more for the service?

MR SPEAKER:

The hon Lady has clarified her remark and the statement.

HON MISS M I MONTEGRIFFO:

Thank you Mr Speaker. So, all I can say is that the patients have suffered enough already due to all of the problems they have had to endure, and on top of it because they have been targeted by this Government for paying more for certain services I have just said.

Kitchen – Meals

Now it is the turn of the kitchen, for which there was no space in the new hospital and the Government decided to house it in the old Wine Factory area. It is not at Europort as the Minister has said in his speech because the Government decided to house it at Europort. It is there because there was no room for it at Europort. In any case, the famous petty seagull did cause part of the ceiling to collapse and now they are admitting it. When we first expressed concern at the problems that could arise with the meals, the Government's initial reply was to say that there would be facilities in each of the wards for the meals to be regenerated. If one looks at the meaning of the word in the English Dictionary, it means revive, restart, rekindle, rejuvenate, restart. So they were simply going to be reheated, simply reheated. In October last year the Minister for Health then said that the provision of meals to patients at the new hospital would be on the basis of a plated menu service, and that there would be no regeneration of food required, no reheating, another U-turn. Well, as soon as the patients first started to sample the fantastic 5-star menu the Chief Minister had said in this House they would be getting, there were complaints flying all over the place. Patients were even calling in to our offices to voice their complaints. So, again, in the last meeting of the House I followed the matter up. The Minister said that the Government

were aware that when the service first started there were some complaints, some he said, on meals arriving cold. He said what he has said today, that temperature and quality audits were put in place and remedial measures were taken immediately. Well, we are still receiving complaints about the meals, reference their quality and reference the fact that both the patients and their relatives are asking the nursing staff whether they can heat the trays in the microwaves there are in the small utility areas of the wards. What the patients are telling us is that the meals in the old St Bernard's Hospital were far better, that is what they are telling us. [Interruption] It does not matter if they are the same cooks, it is the way they are being delivered perhaps it is the Minister who is cooking and that is why the meals are so bad.

Car Parking Spaces

Now to the question of the car parking spaces for the public. On this issue there are also many contradictions. In answer to Question Nos. 1887 and 1888 of 2004, the Chief Minister said, I quote, "The number of car parking spaces the Government have agreed to purchase is 85. They are intended for use as public car parking for visitors to the hospital. No decision has yet been taken about how that will work. The value, and I stress the word 'value', is £650,000". In supplementaries I pushed the Chief Minister a little further and he then confirmed that apart from this money, "the Government have entered into an agreement with the developers which meant that consideration had also been taken to the possibility of a form of discount being paid from a premium due on another project.". These were the words of the Chief Minister, which means that if that is the case the overall cost to the Government will be far higher than the £650,000 he mentioned. He also said, and I quote, "it is the cost to the developer of purchasing that floor, which they are just going to hand to the Government". In 2004 the Chief Minister was saying that the floor was just going to be handed over to the Government. Then in a press release issued by the Minister for Health recently, he had the audacity to say that the Government reject Opposition criticism that the new hospital lacks parking for

the public. He says, I quote, "already there is more parking near the hospital than at the old site". Those were his words. However, as has already been announced, approximately 100 parking spaces will become available exclusively for the hospital towards the end of the year, once the adjoining Euro Plaza building is completed. Who do they think they are fooling? Do they seriously believe the new hospital does not lack parking for the public and that there is more parking near this one than the one at the old site? Where can people park in that area? Some people have even opted to park at Safeways, where they have an hour's time if they buy articles that come up to a certain value of money. Furthermore, let us look at the Government's reply in answer to my Question No. 134 of 2005, two months ago. The Minister for Health had this to say, I quote again, "the GHA has not yet adopted any policy decision with regard to the use of car parking spaces in Euro Plaza". More contradictions, and today two months after that statement was made by the Hon Mr Britto, we again hear the opposite, that there has been an agreement. Only last week the Government issued a press release but again it was full of spin, the usual. They said there had recently been some public comment about the non-availability of the Morrison's car park in conjunction with the hospital. How can they have the audacity to say that? The Minister has mentioned it again today. The Government have twisted the facts once more because the people are not criticising Morrisons, they are not being critical of Morrisons, they are being critical of the Government for not having car parking spaces available as soon as the hospital opened. That the Government should try to blame Morrisons is ludicrous as Morrisons are not responsible for the lack of car parking at the new hospital. Again, they have tried to push the blame to somebody else. So now the Government have confirmed that they have entered into an agreement with Morrisons, who are providing 25 temporary car parking spaces to the Government. So much therefore for their earlier press release when they said there were already more car parking spaces in the Europort area than in the old St Bernard's site, because if there were, as they said, the Government would not have found the need to acquire these 25 temporary car parking spaces.

Let me now turn to the Government's reaction to a press release we issued on 20th February 2005, in which we highlighted the problems that emerged at the Europort hospital only a few weeks after it opened. Let me say that I was a witness to all those problems, as I mentioned earlier on in my contribution. I was there visiting a friend as an in-patient. Our press release said the following and let me make an instant comparison with what the Minister had to say later on in his press release. I quote, we said: "visitors to the hospital have contacted us today to inform us that the entrance door to St Bernard's does not work properly. It appears that its sensor cannot cope with gusts of wind that hit the door and it opens automatically, which in turn affects the heating of the area in question. The roof to the entrance door has not yet been modified to take into account heavy rainfalls, and people going into the hospital and out of it have to move across so as to avoid being drenched with the water that cascades down from it." What was the Minister's reply? I quote him, "the wind-swept rains have also affected the main entrance door of the new hospital by interfering with the electronic sensors operating these sliding doors. Also the tiles on the roadway immediately outside the main entrance have also been adversely affected." Exactly what we had said, but he further confirmed that the tiles on the roadway outside the entrance all became loose. To our press release again, we said: "we have also been informed that Rainbow Ward, Stores and the Garage for staff, have also suffered from water penetration." The Minister's reply: "the only significant incident, (as if the others were not) has concerned the roof of one of the newly built plant rooms which serve to air condition the whole hospital. This has caused a small amount of water to filter through into the sluice room area on the floor immediately below which is adjoining one of the operating theatres. But it has had no adverse consequence on the surgical schedules. He also confirmed that there had been some water ingress also in the basement area. The Hon Mr Britto's reply was quite astonishing, he accused me of fanciful statements and then, he not only confirmed all of the problems we mentioned, but he confirmed that there were even more than those we had mentioned. What nonsense, in a bid to minimise all these

problems he keeps referring to them as being only minor ones. He was the only one who thought they were minor because everybody else, the patients, the relatives and the staff did not agree with him, I can assure him. He also said in his press release that a full study had been conducted by a team of UK specialists on the Europort buildings prior to the decision to locate the hospital there. Well the statement makes matters even worse. It is obvious that the workmanship resulting in the conversion of office blocks into a hospital has been the cause of these problems. Even the Government confirmed this since in their press release they said that the water ingress was, I quote, "as a consequence of some poor workmanship, faulty seals, joints et cetera". By definition then, they cannot be attributable to the state in which the original Europort buildings were. It is absolute nonsense that the Government should refer to these problems as minor and as part of the usual snagging problems. What they were really trying to do was to patch up the enormous error of judgement on their part for having taken the decision to house a hospital in a building which was purposely built as offices and not as a hospital. The Government should have listened to us and they should have gone for a purposely built hospital, then there would have been room for a kitchen, there would have been room for car parking spaces and furthermore, there would have been even more room for its function in the future. A purposely built hospital, as we proposed, would have cost half the money this one is going to cost, and the Government would have ended up with two buildings instead of one, which today is proving to be inadequate. Remember about the recent incident of the plaster board wall collapsing on a patient who sustained injuries. Remember we still continue to receive more complaints both from the staff and the patients, for example, the problems of toilets being blocked, the constant overflow in the bathroom, the staff complaining that there is very little linen space in the ward, that they have been allocated very few seats in the cafeteria, that many of the double doors are so heavy they need to use the weight of their whole body to push them open, patients complaining of very long corridors and that the hospital is not well signed, the system of zones is quite confusing, many visitors tell us that they have to keep asking the

staff for instructions as to where to go. So, as I have said earlier in my speech, we have more problems in the new hospital than what we did in the old St Bernard's site. It is not that our people are not good enough to manage our Health Services; it is not that our patients are too fussy; it is not that the problems are the everyday problems that exist in all hospitals; it is not that the Opposition is exaggerating; it is not that our people are not good enough; it only boils down to one factor and one factor alone, that this Government are totally unfit to govern.

I will finish off my contribution with the other department I shadow, sport. Here again we have more of the same problems I have mentioned as regards our Health Services, all sorts of delays and all sorts of contradictions. In fact, there have been delays in all the areas that I have been touching upon year in and year out. For example, we have the long standing saga of the boat owners who are still at Western Beach, after they were promised seven years ago to be moved to the area of the Coaling Island. I know the Government have been blaming the MoD for these delays, but as with most things the Government promise it takes them years to deliver. In politics there is a limit to how long one can continue promising things and then blaming others for the delays.

Another long standing saga is the Leisure Centre. This again was promised in 1996, and during all of these years the Government have tried every trick in the book to counteract public criticism, and have given all sorts of contradictory answers in this House. Delaying tactics once again. Mr Speaker was not here at the time but it was laughable to see in the GSD's manifesto of 1996 a sketch of the intended Leisure Centre that the Government promised to build then. It looked like the arches of the old Health Centre building. Since then we have all been subjected to more smokescreens and more U-turns, the usual tactics this Government resort to when they cannot deliver, and still we need to see when the Leisure Centre will be finished or started. Mr Speaker may not be aware that the then Minister for Sport, the Hon Mr Britto, gave a commitment two years ago in answer to our questions in this

House, that works to build the Leisure Centre in the old King's Bastion area would commence before the end of his term of office. He said this and nothing of the sort has happened.

Now the new Minister for Sport, the Hon Clive Beltran, has again tried to minimise the continuous delays in the realisation of their 1996 commitment, by going to the extent of saying the following. In answer to Question No. 59 of 2005, two months ago, I quote, "the Government were elected in November 2003 on their manifesto for that election, which does indeed contain a commitment for a leisure centre. It is envisaged that construction works will commence in June this year." As if the commitment was given in 2003 when in fact it was given in 1996. Quite cheeky of him. I have noted what the Minister has had to say in his speech on this issue and I await, as usual, with the patience of Job for the project to get off the ground with a vengeance. Let us see how long it takes for the leisure centre to be built from the time it was promised.

I am afraid that the new Minister for Sport has committed the same sins as his predecessor, that of being too optimistic on this occasion, as regards the Sports City. In answer to Question No. 1485 of October 2004 in supplementaries I asked him, "perhaps the Minister can be a little bit more specific when he said the hall would open as soon as possible." I then reminded him of what he had said during his budget speech, I quote, "that the hall would be fully operational by this autumn". He had this to say, and when I mean this autumn I mean the autumn of 2004. He also said, I remember, that the autumn was generally finished by 21st December. I suspect he knows what I am about to say because at the meeting of the House in December 2004, I reminded him that he had said on several occasions that the new Sports Hall would be fully operational during the autumn of that year. He tried to bail himself out by trying to make out that what he had said referred to the works. The House may recall that I proved him wrong as I subsequently asked for a draft from the Clerk of the House because Hansard had not yet been published, and I quoted word by word what he had said which confirmed that he had indeed said that the new Sports Hall

would be fully operational by last autumn. Also, he must have forgotten that in the meeting of October he accepted he had indeed confirmed this. The latest situation as regards the famous Sports Hall was explained by the Minister during the last meeting of this House, in answer to Question No. 56 of 2005. I quote, "The new Sports Hall has been ready for use for some time now and will be used by the public as soon as the staff are employed. The relevant posts have already been advertised." Practically, the same gist of the answer that the Minister for Health gave in relation to the CT Scan. I wonder who writes the answers to questions, but again what a spinful reply. It has been ready for use for some time but until the required staff are employed the public cannot use it. That is what the Minister for Sport said. It was still not fully operational two months ago as he said so he has missed his predictions on two occasions.

Again more delays, this time on the question of the new stands and changing facilities in relation to the water-based hockey pitch. In answer to Question No. 2141 of 2004 the Hon Mr Clive Beltran said that works to the changing rooms and spectator facilities were expected to reach practical completion in February 2005. At the last meeting of the House, in answer to Question No. 55 of 2005, he says "as for the hockey stand, it is projected that it will be available for use next month", which then meant May. So we have a situation that since the water-based pitch was installed four years ago, its adjacent facilities were not completed and ready for use as predicted by the Government. I would like to finish on all of these issues by quoting what the Minister for Sport had to say in his budget contribution of last year. Twelve months ago he said the following: "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 autumn of the year 2004 came and went and nothing happened. All these incorrect statements all prove what I have said earlier in my contribution, that this Government care very little about the accuracy of what they say.

Now let me remind the House that the Government first announced the Bill to constitute the Gibraltar Sports Authority in 2002. Then, as I said recently on an amendment brought by the Government, I made our views known as to why we are against authorities. We heard on Friday from the Minister for Sport about the Government finally coming to an agreement with the Unions. However, as he had said, it has also come to our knowledge that not all members of the staff have agreed to join and therefore, we would like to know when the Chief Minister exercises his right of reply, what is actually going to happen to those who have not accepted to join. Whether they will stay on at the stadium, or whether they can ask for a transfer, these sorts of questions we would ask the Chief Minister to reply. My point again is that it has taken the Government three years for the authority to get off the ground. In October 2004 in supplementaries to Question No. 1486, the Chief Minister said, I quote, "she is right (meaning me) in saying that recruitment of staff has not yet commenced, and I believe it is imminent." Imminent means about to happen. Again we have all these statements from the Government using the word "imminent", using the word "soon", and the word "imminent" and the word "soon" does not have any meaning to them. That it should take nearly a year for vacancies to be advertised for example, can be hardly considered as imminent.

I remember that for some years I have also been asking the Government that they should negotiate with the existing groundsmen as an interim measure, so that for a small extra fee they could take over the watering and maintenance of the water-based hockey pitch, which has been carried out by AMCO and costing the Government a lot of money. They did not agree with us then and today, ironically, the groundsmen who have now entered into an agreement with the Government will be getting much more money than they were originally asking for then. So, when we are critical of sport, we are on account of the years it takes for things to materialise. The same old GSD story.

As always I cannot end my contribution without paying tribute to our sports people. They not only achieve great results for

Gibraltar but they are very well received in every country they visit, except Spain. This year our sports people will be participating in the Island Games in the Shetlands, and we also wish them the best of Gibraltarian luck. As regards our neighbours, we hope that one day the Concejo Superior de Deportes of Spain will see that they cannot achieve their goals with their directive to all Spanish federations which still exists today, that Gibraltarian sports people, its flag or its anthem will not be recognised by them. It is amazing that Spain, especially where Gibraltar is concerned, has not yet reached the level of political maturity that exists when it concerns other countries. Indeed, for example, in the UK, Scotland, Wales, Northern Ireland and England, on many occasions represent their respective countries and they respect each other's flags and anthems. Perhaps, who knows, one day Spain will consist of different small nations, as for a number of years some Spanish regions have been striving for independence from the Kingdom of Spain. Anyhow, by now the Spanish should know that we will not give in to any amount of bullying on their part and that Gibraltarians are as solid as the Rock on which we live, and which is rightfully ours. That is why we place great importance to having our new Constitution in place as soon as possible. Imminent. It needs to be pursued with a real vengeance, the word the Chief Minister uses on many occasions.

Our new Constitution is the way forward for giving Gibraltar the security it needs for the future. Of course, it is the Gibraltarians and only the Gibraltarians who should determine their future. The British Government should also know by now that we do not care what Spain thinks on the matter, we do not wish to form part of the Kingdom of Spain. We respect them as Spaniards and we in turn expect them to respect us as Gibraltarians. We have been living on the Rock for hundreds of years, successfully maintaining our own culture and our own identity, and neither Spain nor anyone else for that matter, will ever destroy it. Thank you.

HON J J HOLLIDAY:

Mr Speaker, my Ministerial responsibilities are Trade, Industry and Communications, which include the Post Office and Gibraltar Regulatory Authority, the Philatelic Bureau, Tourism, the Port, the Department of Shipping and the Department of Information Technology. I wish to consider each of these areas of responsibility in turn.

I will start with trade and industry. There has been significant economic activity in property development during the last financial year. The agreement entered between the Government and the MoD last year resulted in the release by the MoD of a substantial number of properties and some of which have still to be transferred to the Government. Government have already sold or are selling these properties for large sums of money which the Government are investing in the building of affordable housing in line with their manifesto commitments. The former Buena Vista Barracks and the North Gorge were recently put out to tender. This tender is in the process of being adjudicated at present and will include a significant number of affordable homes for Gibraltarians. There are other valuable plots of land that have been put out to tender recently, such as, the ex Junior Ranks site at Lathbury Barracks and the former distiller that was then used as a temporary MOT centre, and there are residential and office projects proposed for these sites. There is also a site at Lathbury Barracks which has been allocated for the development of a private care residential village for the elderly, which will be a new facility to be offered for the elderly in Gibraltar. Final details of this project will soon be submitted to the Government and a formal announcement will follow. A number of old properties in the Upper Town have recently been offered for sale by tender. These are aimed at Gibraltarian purchasers who wish to have the opportunity to purchase a property that requires improvement and can become a very desirable family home. There are other sites that the Government will consider for residential and commercial development including car parking during the current financial year. They include parts of the site of the old St Bernard's

hospital and the adjacent former Police Barracks. There are also plans for a multi-storey underground car park at Grand Parade, which will be a welcome facility for those that live in this area of Gibraltar. The policy of the Government will continue to be to maximise the price that they can obtain from the sale of important former MoD properties for the good of Gibraltar; to make available to Gibraltarian purchasers as many properties as possible, and to encourage home ownership amongst Gibraltarians and assist first time home buyers. There are important building projects that are under construction or on the drawing board. They include the Ocean Village development at Sheppard's Marina, which commenced construction earlier this financial year; Euro Plaza, which is now well under way; the Island at Queensway Quay, which commenced earlier this financial year; the Anchorage in the vicinity of Rosia Bay; the Mid Town development next to Regal House; Sovereign Bay, which is the name for the East Side development; King's Wharf development in Queensway; the Government housing project development on The Sands; the housing projects for the sites on the Devil's Tower Road hostel; the redevelopment of Buena Vista site and part of North Gorge. There is no doubt that these projects are going to alter the face of Gibraltar but they will move Gibraltar forward into a higher league and provide many new homes, a significant number of which will be affordable homes for first time Gibraltar buyers. There will be other spin-offs from all these developments, including new leisure and shopping outlets, car parking, school, public parks in the city centre of our community to enjoy, new hotels and office accommodation. In addition, there is the obvious multiplier effect of all this investment in the economy that will bring economic prosperity, including sustainable employment.

I would now like to dwell briefly on the East Side project. This project is on track and progressing well. The outline planning application for the development has now been tabled for consideration by the Development and Planning Commission. The general public is being invited to examine and comment on the plans. As announced, the Government have already obtained the payment of part of the premium for this

development. It is a condition that the works for upgrading and regenerating Eastern Beach and Catalan Bay should be done at the front end of the development. Work on this should commence next year as the planning process is estimated to take about nine months. There are many social and economic benefits for Gibraltar from this exciting and important project and the momentum is now starting to gather.

In relation to the Mid Town development project, the Opposition criticised the Government when it did not put out the land to tender. The Government explained at the time that the deal that was struck between the Government and the developer of this project is a good one for Gibraltar and that it is unlikely that a better deal could have been obtained through the tender process. The premium agreed proved the point in that this is the highest premium paid by any developer to any Gibraltar Government for any site. The policy of the Government still continues to be that of the tender route as the preferred one unless there are reasons which are of social or economic benefit to Gibraltar, as happened in the case of Mid Town development, why a direct allocation should be awarded to a developer. The Government look forward to this development progressing and the tangible benefits that the people of Gibraltar will obtain from this project, which will include a new school, the demolition of King's Bastion power station, the opening up of the historic Bastion and the creation of the leisure space and public parking in the city centre.

Over and above private sector development, the Government have progressed their strategy of public sector improvements through the Improvement and Development Fund. The works of the current phase of Catalan Bay which is now drawing to a close, has considerably beautified the area. John Mackintosh Square has been recovered as an open space and is attractively landscaped, it has a very different character from Casemates so that these main squares compliment each other. The works to develop further industrial units also continues. Phase 2 of the Lathbury Barracks industrial park development is currently in the planning stages and substantial progress on this project is

expected during this financial year. The Government wish to address the significant demand for industrial units, especially from small and medium enterprises. Light industrial use is also intended for a reclamation that the Government intend to carry out in the area of Western Beach adjacent to the runway. Preliminary studies are being carried out at present. Part of the area will serve as the base for a local company that exports motor vehicles. Other parts will be for other commercial use. It is intended that the project will also improve berthing facilities for the local community. However, the final details of the project are still to be concluded. Further proposals for projects keep coming forward and these will be given the consideration they deserve. It is very evident that there is a high level of confidence to invest in Gibraltar from both local and outside investors. This is a basic ingredient for a stable economy with healthy economic growth.

The Government have a difficult job to do in balancing the need to preserve important elements of our history and heritage and the need to develop land and better utilise the scarce resource. It is impossible to please everybody all the time. However, the Government will continue to judge each case on its merits and will listen to views before deciding on the best way forward. During the course of this year the draft Development Plan will be published and the public will be invited to comment on this important document. Plans are being prepared by the Planning Division at the Department of Trade and Industry. Government felt that the Development Plan should be prepared in-house, as this will provide a clear understanding of the local perspective and Gibraltar's needs.

With regard to licensing issues, works by officials on the long-awaited review of trade licensing legislation has now drawn to a close, and the draft will shortly be considered by Ministers. This exercise has been undertaken in consultation with the Gibraltar Chamber of Commerce and the GFSB. Progress is also being made on reviewing the bonded stores regime. The Government wish to create the right environment for commerce to grow and prosper and this, in turn, will provide that adequate revision of

our legislation and new procedures be adopted. I expect the new regime for trade licensing and for bonded stores to be implemented during the course of this financial year. However, contrary to what has been said by some in local business circles, the objective of these changes is to create a business environment to encourage further growth in trade. In addition, the Government are working on new legislation disqualifying persons from being directors of companies in certain instances. The EU Secretariat of the Department of Trade and Industry is in the process of being completely restructured so that the general public can obtain better assistance in the field of business advice and the possibility of accessing EU funding for projects. Business advice will fall within the remit of the GIBInvest Unit, which continues to do sterling work in assisting persons who require, and what they need in order to set up a business in Gibraltar, and acting as an interface between my Ministry and the Chamber of Commerce and the Federation of Small Businesses. The inter-relationship between the Ministry for Trade and Industry and both the Chamber and the Federation is good. In addition to meeting with both bodies bilaterally, through the various advisory boards that I appointed on taking over responsibilities for this Ministry, I can obtain advice from these representative bodies. Although the members of the Business Advisory Council, the Tourism Advisory Council, the Port Advisory Council and the e-commerce Advisory Council are appointed as individuals and not in representation of any outside interest, the fact remains that members of these councils are in many cases active members of either the Chamber or the Federation, their voice can thus be heard by Government.

More and more small and medium enterprises in Gibraltar are benefiting from EU funding. Indeed, 35 small and medium enterprises have successfully submitted projects within the present Objective II programme which runs through 2006. There have been 20 new business start-ups and six women entrepreneurs have been assisted in starting a business. A total of 61 jobs have been created as a result of these projects and a further 15 jobs safeguarded. In addition, 43 full time jobs are

being created as a result of EU funded public sector projects in the current programme. In the programme to date the Government have invested £4.5 million, the private sector has invested £700,000 and EU grants totalling £2.5 million have been obtained. The private sector has benefited from EU funding to the tune of £290,000 so far within the present Objective II programme. There are also other programmes for which Gibraltar has benefited, including the Interreg Project, which are trans-national projects and the European Social Funding Projects for training. EU funding has assisted in diversifying the economy through encouraging small and medium sized enterprises to start up businesses, encouraged them to expand in new activity and assisting them to grow their operations and create sustainable jobs. In the public sector, the Objective II programme has assisted the tourism sector to consolidate and grow in new directions, has assisted with public transport, has helped in beautifying the city centre and Catalan Bay and with recovering open space in the heart of the old city, thereby contributing to urban regeneration.

With regard to investment, Government have created a specific division within DTI to spearhead an initiative in this field. The difference that formerly existed between inward investment from outside Gibraltar and investment by persons in Gibraltar has been completely erased. As far as Government are concerned there is only one issue. That of investment regardless of its source. The Investment Division will lead a strategic operation aimed at encouraging, promoting and facilitating private sector development and investment opportunities in Gibraltar. I identified, on taking over responsibility for Trade and Industry, that there was a need to have dedicated resources to assist and support enterprises to expand and diversify their interests in Gibraltar, the market for various sectors of Gibraltar generally, in the international market place and to channel all business enquiries through one source within Government. These functions are now being carried out by the GibInvest Unit. During the course of this year, this Division will prepare and launch a dedicated website, will produce business support information packages and will spearhead a marketing campaign.

Gibraltar is enjoying an investment boom in many fields of trade and the Department of Trade and Industry is providing the necessary support and encouragement to those wishing to invest in Gibraltar's future.

I will now turn to the area of communications, which comprise responsibility for the Regulatory Authority, for the Post Office, and by extension to the Philatelic Bureau. I will first address the matter put forward in the remit of the Gibraltar Regulatory Authority. The GRA is an independent authority when it comes to acting as a legal watchdog. However, it is the Minister for Communications that is the licensing authority for many of the activities overseen by the GRA. The work of the GRA falls into three parts. The international coordination of satellite network and licensing, communication which improve telecommunications, radio communications and licensing of the radio spectrum, and data protection. A new licence was granted to Broadband Gibraltar Limited earlier this year, which signifies an important investment in this field. The company will commence operations shortly. I anticipate that new communications legislation will be implemented later this year. Much work has already been done in drafting the implementation measures for five new EU directives to establish a new regulatory framework for electronic communications. The Communications Ordinance will replace the Telecommunications Ordinance. Details of the package have been given by me in meetings of this House in answer to questions.

In so far as the Royal Gibraltar Post Office is concerned, there has been a concerted effort in the last year to review the range of services that the Post Office offers to increase the services available to the general public and to ensure that the efficiency that has finally been achieved by the Post Office is maintained. This has required the commitment of both management and staff. I am satisfied that mail is being delivered promptly in Gibraltar and that the public, and in particular the business sector, are receiving the service that they require and to which they are entitled. In the financial year ending 31st March 2005,

3,850 out of the 4,004 walks were completed by postmen in accordance with the next day's service model. This represents 96 per cent of the target figure for the year. This is an excellent result. The grant to the Post Office of the title 'Royal' was a highly deserved recognition of our postal services at a time when much change had already happened and further improvements are in the pipeline. The last year has seen much activity in the Post Office, and many improvements including the additional 700 new PO Boxes and the introduction of a new generation of franking machines. New services have included track and trace services, the introduction of bar codes in all parcels, the new express mail service and the new e-Bluey service. In this financial year the drive to modernise Gibraltar's postal services will continue. The Government are currently considering introducing postcodes for Gibraltar to facilitate mail handling. Government will also be examining options for insurance of postal packages and working with the Post Office to further develop e-Commerce in Gibraltar. Already one company from outside Gibraltar has relocated an export e-Commerce business in Gibraltar, fulfilling by post orders received through the internet. A second player is currently assessing the possibility of a similar type of operation and the Government strategy is to make further progress in this field. Government are confident that this year will see further e-Commerce business relocating and setting up in Gibraltar in line with Government strategy. Within a short time e-Business House will be set up, which is a Government manifesto commitment, working from a single location from which a number of operators will be able to fulfil export orders. A seminar to inform the private sector on the potential of this sector is being organised by Government for the latter part of this year. I am sure this exercise will be of great benefit as an eye opener to local enterprise for possible expansion in this field. At present the total revenue being generated by the Post Office does not cover all its operational expenses. This has been the case for many years and is something that the Government intend to change. I believe that the Post Office should generate income for Gibraltar and I will continue to take

steps, as I have done in the last financial year, to contain expenditure as much as possible and to grow revenue.

Turning now to the Gibraltar Philatelic Bureau of which I am the Chairman, I am pleased to say that 2004 was a record year for the sale of Gibraltar postage stamps. The licence fee paid by the Bureau to the Government in 2004 exceeded £150,000 for the first time and was in fact £233,000. The record year was as a result of growing interest in Gibraltar stamps, marketing campaigns, increased cooperation between the Bureau and its philatelic agents, and the collaboration of the Bureau with major postal administrations overseas. Gibraltar continues to enjoy an excellent reputation for producing high quality stamps and for innovation. I expect 2005 to be another good year for the Bureau and therefore for the Government in this area.

I now move on to the Information Technology Division. The Government continue to have as their strategy advancement of information technology and the development of e-Business. Through an EU-funded project, Admitron, the Government have been able to develop an intranet which will eventually link up all Government departments internally. The IT Department will be completing their work on redesigning the Government website and this will shortly be presented to the public. Many of Gibraltar's laws are now on line. Government's programme for replacing and increasing the number of Government services and departments on line continues. A private scheme for e-Procurement of goods and services for the Government is being worked on. In terms of planning, a geographical information system is being developed, again, through an EU funded Interreg project. This will be of particular use to the planners and developers in the first instance, but there are many other applications of this technology.

I now turn to tourism. With regard to tourism 2004 was a good year for Gibraltar and the prognosis for 2005 is healthy. The number of visitor arrivals by air last year was 157,000 an increase of 16.3 per cent over the previous year, and more than double the 78,100 air arrivals of 1996 when this Government

came into office. As from May this year we are enjoying 28 flights per week to the UK, the highest frequency ever, using aircraft which are substantially larger than those of years gone by. There are 10 flights a week from Gatwick, 7 flights from Heathrow, 7 from London Luton and 4 to Manchester. Under the current use of our airport my aim is to achieve 200,000 visitor arrivals a year, something which may be possible this year and which will certainly be achievable next year. Arrivals by sea and cruise ships in 2004 showed an increase in the number of calls from 167 in 2003 to 171 ships but much larger in the number of passengers. This increase was over 13 per cent and represented an additional 19,300 passengers. Not that long ago we celebrated the arrival of 100,000 cruise liner passengers in one year. In 2004 we had over 150,000 passengers for the first time and indeed received just short of 163,000. Added to this there were 77,000 crew members on the cruise ships that were received last year, thus making this sector of considerable importance to Gibraltar's tourism. The number of cruise ships calling at the Port will continue to grow this year and now that we are in the cruising season, it is often the case that there is at least one cruise ship in port at any given date. The number of cruise calls expected in 2004 is over 180 with approximately 175,000 passengers plus crew (which is not included in the figure). 2005 will see another record year. The House will recall that earlier this month Gibraltar celebrated the arrival of the one millionth passenger to the cruise terminal that was officially opened in 1997. This is an important milestone for Gibraltar to have achieved. Already we have over 100 cruise calls booked for next year, with an estimated 130,000 passengers. There is still more than half a year to go for further bookings to be made, so the Government are looking to a further increase in this area for next year. Also significant to the fact that in 1996 the average number of passengers arriving on cruise ships was 600 whilst in 2006 this will have risen to 1,600 per ship. Gibraltar continues to enjoy a high profile within MedCruise, the Association of Mediterranean Cruise Ports. Indeed, Gibraltar holds the senior vice presidency of the Association and was invited to address the World Cruise Tourism Summit in March 2005. I am delighted to announce that the MedCruise general

assembly in May 2006 will be held in Gibraltar. This is an important event in the MedCruise calendar that will be of benefit to Gibraltar in promoting its profile as a prominent cruise port in the Mediterranean. This event will see the presence of prominent and well-known speakers on cruising matters and the participation of representatives of leading cruise operators. The Government are most satisfied with the real growth that has been achieved in this cruise sector.

Visitor arrivals from Spain decreased by less than 2 per cent in 2004 and this is mainly due to the fact that Spain enjoyed fewer visitor arrivals last year compared with the previous year. Indeed, the drop in visitor arrivals in Spain was much more acute than that suffered by Gibraltar, which showed that there was in proportion growing interest in Gibraltar from visitors to Spain last year. The number of day visitors in 2004 was 7,310,000, which is a very high figure indeed and a source of satisfaction to the Government. A large proportion of the estimated visitor expenditure in 2004 was attributed to day visitors. It was estimated that all visitor arrivals in Gibraltar spent an average of £627,800 per day in 2004, making a total of £229 million. This represents an increase of 13.1 per cent over the corresponding figure in 2003. Tourism is therefore a major contributor to the economy.

Our success in tourism requires investment in marketing, which is something that the Government have successfully done since they came into office and also in the tourism product. We need to manage the impact of the large number of visitors which we attract have on our tourist sites, in particular in the Upper Rock. In order to increase the budget available for upgrading our tourism product, the Government increased the cost of Upper Rock admission by £1 per person as from 1st April 2005. The money obtained through this price increase will be dedicated to upgrading the Nature Reserve through investment and improvement to tourist sites, through safety and comfort issues and through generally, the way the Upper Rock is presented to visitors. Initially, this will be a three year programme of improvements. The benefits from April's increase is still to be

felt by Government but detailed plans have been drawn up and the Government are prioritising the area that will first be tackled. In fact, the programme of improvements has already started.

Over and above these improvements, the Government continue to develop the major new attractions within the Upper Rock. A considerable amount of investment went into Phase 2 of a project that is designed to open up a section of World War II tunnels to visitors and also the 18th century middle galleries. Phase 2 of the project will complete the works that have been started and will provide a link from the tunnel to Casemates Square. As part of this project the new public area will be recovered at the end of the Road to the Lines and people who live in the area and in the Moorish Castle Estate, will benefit from the pedestrian access from the Castle batteries right down into Casemates Square. This element of the project will contribute to the Government's strategy for inner city renovation. The Government have considered the various options open to them given that Phase 1 of the works of this project have already produced the desirable visitor attraction. In consequence, an operator has been granted a temporary licence to open the World War II tunnels sequence that has been developed, and route and escort visitors through the middle galleries to Casemates along a temporary route that has been approved for this purpose. This means that visitors are now able to visit the new site. Visitors who wish to enter this new tourist site will need to have purchased an Upper Rock ticket and will, over and above that, need to purchase a ticket to enter the tunnel at Princess Caroline's Battery. The licence for the site has only been granted for a period that will be required for the remainder of the works to be done. Indeed, a tender for the works for Phase 2 of the project will shortly be issued. Once the works are completed and the entire site is ready for visitors, the Government will terminate the licence that has been granted to the operator, a company by the name of Lets Go, and then decide whether they wish that the Tourist Board should operate the site or that its management should go out to tender.

There are also plans for the start of a project at Europa Point during this financial year. The Government have considered a number of different options for the area of Europa. They have rejected plans to develop further housing in the area as the Government are committed to preserving Europa Point as a leisure area, with as much open space as possible. The Government wish to encourage the use of the area by Gibraltarian families and children, and the development of the area will feature that as a priority. Improved toilet facilities, the demolition of the ex Du Farol restaurant and other structures in the area, the redesign of the road, provision of adequate car parking, picnic area, bicycle track, planting with greenery that is resistant to the harsh weather conditions at the Point, these are all elements of the Government plan which will be carried out. Europa Point will become an attractive location for both residents and visitors.

With regards to hotel occupancy, this continues to rise by 6 per cent in 2004 to 126,400 room nights sold. On a growing number of occasions there have been no hotel beds available in any hotel in Gibraltar and visitors have had to be turned away. The Government look forward to new hotels coming on stream and will work towards this end. It is now obvious that Gibraltar needs more hotel beds and I am pleased that recent private sector initiatives include new hotel projects that will come on stream in the next two to three years. The Tercentenary Celebrations in 2004 witnessed a new momentum in visitor arrivals from the UK and the hotels are still enjoying success this year.

The tourism advertising and marketing campaign in the UK will continue to focus on promoting short breaks and also longer stays. The advertising campaign will include display advertisements in national UK newspapers and general interest magazines. There is a growing interest in Gibraltar as a destination for weddings, diving, sailing and bird watching. They will be particularly promoted through specialist magazines. The Gibraltar Tourist Board will again be producing a UK GTA brochure for 2005/2006 in conjunction with Gibraltar hotels,

airlines and the main UK tour operators that feature Gibraltar programmes. In so far as the Spanish market is concerned, the Gibraltar Tourist Board will be monitoring the success of the package holidays launched by a Spanish operator featuring rail travel from Madrid to Algeciras and onward connection to Gibraltar with accommodation at one of our three major hotels. In addition, there will be an advertising campaign designed for the Spanish market and further trade workshop, building on the initiatives taken so far this year. A successful workshop for the travel trade was held in Madrid, which generated considerable interest in Gibraltar as a tourist centre and a further workshop is now planned in Barcelona. The event was well covered by the Spanish travel media. These workshops are aimed at the travel trade, including tour operators and travel agents, and form part of the innovations introduced by this year's marketing campaign for Gibraltar's tourism.

As a matter of course I consider the success of various strands of our marketing policy when deciding whether or not to repeat the activity as part of the following year's marketing campaign, to ensure value for money and good results. However, this year Government have taken the policy decision to decrease the tourism marketing budget to £750,000 but at the same time dedicate more financial resources on the improvement of the product, to include the Upper Rock and other areas.

I now await Dr Garcia's comments on this Government's decision with interest. According to the Opposition, Government can never get it right. If Government decide that Gibraltar has to have a stand at a particular Trade Fair, Government gets criticised by Dr Garcia for the decision. That too much expenditure is involved, too much travelling, there are too many parties et cetera. If Government decide to drop the Gibraltar stand at a particular Trade Fair, Government also get criticised by Dr Garcia for not doing enough. If Government succeed in breaking the record of cruise visitors, as happened in 2004, Government are criticised for not having done enough to grow our cruising industry. If an airline decides to discontinue a particular route to Gibraltar, it is Government's fault. However, if

an airline decides to start a route like Monarch did with Manchester, or GB Airways with London Heathrow, then it is the airline that has taken the decision and the Government have nothing to do with it. All this suggests that the Opposition do not have a coherent tourism policy other than to be destructive and negative as possible about each and every Government's tourism initiative. I greatly regret that this should be the case. If the Opposition does have a tourism policy, something which I seriously doubt, I would welcome if Dr Garcia could spell it out for the good of Gibraltar if that is what he has at heart. Irrespective of all the destructive criticism, the tourism industry in Gibraltar is doing well. One only has to ask the serious players in the industry, and I stress the serious players. This is the view, in no small measure, to the amount of commitment that is being put into its success by the Government and the Gibraltar Tourist Board, and the good working relationship that exists between Government and the private sector, in working together to ensure that success.

I will now turn to shipping. There are two distinctive elements to shipping, the Gibraltar Port Authority and the commercial development of the Port, and on the other side, the Maritime Administration which includes the Gibraltar Ship Registry. The Port continues to grow year on year. Ship arrivals in 2004 exceeded the 8,000 mark for the first time ever and achieved the figure of 8,644, an increase of 16 per cent over 2003. The gross tonnage of shipping exceeded the 200 million mark for the first time ever, reaching 250 million gross tonnes. This means that more and bigger ships are coming to Gibraltar, primarily for bunkers. The volume of bunkers achieved in 2004 dropped slightly by 5 per cent to 3.6 million tonnes. However, this was due to the unavailability of a certain bunker supply vessel during part of the year. The figure of bunkers supplied in 2005 to date shows an increase over 2003 figures for the same period, which confirms that the bunkering industry is continuing to grow. I would like to take this opportunity to welcome Bunkers Gibraltar Limited, a new operator in the Gibraltar bunkering sector. This company was granted a bunkering licence early this year and has invested significantly to commence trading shortly.

Government are confident that their presence in Gibraltar will bring additional new business to Gibraltar.

The Port website is proving to be the most effective marketing tool for the Port and new features are being added to improve its usefulness. A new edition of the Port Handbook is in the course of preparation. The scope of this publication has been expanded and will now be known as The Gibraltar Port and Ship Registry Handbook. I expect to launch the Handbook in the autumn. The Port will again be represented at important maritime events during this financial year. Marketing will include a dedicated presentation to ship owners and ship operators in Pareos in Greece. This is planned for the autumn and will be carried out jointly by the Port and the Ship Registry. This exercise was done two years ago and proved to be most efficient, with new business being attracted to Gibraltar.

In so far as the restructure of the Port is concerned, the Government expect to sign with the Union, the agreement transferring staff to the Gibraltar Port Authority shortly. All terms have now been agreed and the final draft of the relevant agreement is with the Union at present for final execution. At that stage, all new licensing registration and the Port Authority Ordinance will be brought into immediate effect. I am confident that we are now on the verge of putting in place the new structure, new working practices and new job descriptions for Port Authority employees, which will ensure that the Port continues to be the commercial success that it is today.

With regards to leisure and marinas, I wish to highlight the success of our marinas. There are fewer berths than usual available at Sheppard's Marina whilst the works of Monaco Ocean Village progress, but nevertheless our marinas are full. I look forward to the development of a new marina as part of the East Side project, and additional berths at Queensway Quay, because I am aware that the demand for marinas is now well outstripping supply. The Hon Marie Montegriffo will be pleased to hear that the members of the Cormorant Camber Boat Owners Club will be moving to the new marina in the near future. The

move has taken longer to get to this stage than the Government had intended but the negotiations with the MoD have been protracted. I believe that the new facilities constructed at Coaling Island will be warmly greeted by members of the Club who will be transferring their boats to the new site. I welcome the opportunity to thank the members of the Committee of the Club for all their hard work in progressing this development, and for working closely with Government at all stages of the project.

The Gibraltar Ship Registry continues to grow and there are now over 160 vessels on the register. A further 10 new build are expected to flag in to the register shortly and the target of 200 ships should be achieved during the course of this year. The watchdog for the registry is quality and certain ships that were not operating to the high standard that the registry expect, were struck off this year. Training is an important element of Government strategy for the maritime sector. The Government will shortly be inviting applications from young Gibraltarians to take up two places that have been reserved on the training courses in Warsash in the UK, which would lead them to becoming future officers on board a ship. This scheme is partly sponsored by private sector companies in the field of shipping. The Government's vision is to train young Gibraltarians to become future ship captains and ship officers on board ships, so that in due course, fully qualified Gibraltarians can be appointed as Captain of the Port, as Maritime Administrator and as Gibraltar Pilots.

I will now turn to a matter that cuts across several of my Ministerial responsibilities, what has been termed as the 'Los Barrios process'. I have been directly involved in three initiatives under this process that impact on tourism, trade and the Port. I believe that this process can be of considerable benefit to Gibraltar and at the same time, confer benefits on the Mancomunidad de Municipios. In the area of tourism there is a desire from the Mancomunidad to explore joint marketing initiatives. The well-established Gibraltar tourist product and the emerging tourist product of the region could be said to be complimentary. There are opportunities for Gibraltar in the well-

packaged tourist product of the Mancomunidad, with the possibility of expanding the range of tourist product offered to visitors who stay in Gibraltar hotels. There are also opportunities to entice Spanish operators to produce and sell two centre packages to Spanish visitors, including a stay at a Gibraltar hotel in addition to a stay at a Spanish hotel. However, any joint marketing initiative will not substitute Gibraltar's own strategy as has been the case since 1996. In so far as trade is concerned, there is an initiative which is being progressed to set up an information bank for persons in Spain, particularly in the region, who wish to invest in Gibraltar and set up a business. This can only be of benefit to Gibraltar. A helpful link has been established between the Department of Trade and Industry and the Spanish RAUTE, la Red Andaluza de Unidades Territoriales de Empleo, Desarrollo local y Tecnologia. Relations with the Port of Algeciras were formally established in May this year when I met the President of the Algeciras Port Authority, and held a fruitful round of talks mapping up areas of future cooperation, coordination and collaboration between the two neighbouring Port Authorities. Two specialist working groups were established, one dealing with marketing and commercial issues, the other with technical issues, including control and management of the Port. These working groups will report back to me and to the President of the Algeciras Port Authority in the autumn. The reports will be the basis for a future joint Port strategy in areas of mutual interest, including marine environment, safe operation of shipping in the Bay, Port activity and the commercial dimensions of both ports. A further area that is being considered, with the full support of the Algeciras Port Authority, is the resumption of the ferry link between Gibraltar and Algeciras. This will be a positive development in transport communications between Gibraltar and Spain.

This completes the overview of the Ministry for Trade, Industry and Communications. It is a large Ministry with responsibilities for a variety of departments and functions in most of the sectors of the economy. Government's economic policy is performing well. The results detailed in my submission today clearly confirm this.

HON DR J J GARCIA:

Mr Speaker, in 1948 George Orwell wrote the futuristic book 1984. It was set in Airstrip One, what is today England, which was itself part of a larger country. The official language of this country was Newspeak. In the words of a critic this meant that words were so abstracted from events and actions that they took on the exact opposite meaning. This was linked to the concept of "Doublethink" which was the power to hold two contradictory ideas simultaneously. "Doublethink", to quote a critic, "makes people accept contradictions, and it makes them also believe that the Government is the only institution that distinguishes between right and wrong." Therefore in the book the Ministry for Truth was in charge of spreading lies or propaganda. The Ministry of Love was in charge of spreading hate, and the Ministry of Peace controlled the army and the war. It was reflected in three slogans. These were "War is Peace", "Freedom is Slavery" and "Ignorance is strength". I include this short factual introduction purely in order to set the scene for the introductory analysis that I wish to make. This analysis and the parallel centres on the concepts of "Newspeak" and "Doublethink". This is why it is important to explain the concepts before starting the actual analysis itself.

The budget put forward by the Government and reflected in the Estimates of Revenue and Expenditure is nothing to write home about. It was while listening to what all the Members of the Government have had to say on the Budget that these ideas of propaganda, of "Newspeak" and of "Doublethink" came to mind. For the Chief Minister the health of the economy was not good, it was not even very good, it was "excellent". We heard never-ending talk of records, of surpluses, of growth and of increased activity. This theme was repeated several times. Other Ministers, continued with the "Newspeak". The House heard several phrases such as the "third strand of our investment strategy". That new homes were being developed "gradually" and "prudently" in a way that would lead to the construction of low cost homes that our community will be proud of. In the past

we have had the hospital being described as being "state of the art". This time it was described more than once as a "tremendous and unqualified success." This year the label "state of the art" was reserved for use by another Minister when talking not about a hospital or a building, but about a playground. Hon Members have heard much of "successful formulas" and of Government strategies being "at the forefront of this or that initiative". The buses, for instance, were described as a "success story".

The gap between pronouncements and reality will only serve to fuel the perception that already exists in many quarters that this Government have run out of steam. Indeed, their use of "Doublethink" has developed to such a degree that ideas that the Opposition have put forward in the past, and which they used to criticise, have now been adopted as if they were policies and ideas of their own. Therefore if we do it, it is bribery and vote-catching and unnecessary and wrong, but if they do it, it is positive, generous, successful and right. George Orwell would have been proud of them.

People, have every right to be disappointed with this budget. For years we have been highlighting the manner in which the Government have been squandering money left, right and centre. No amount of "Newspeak", will hide the fact that this has been a singularly unimpressive budget which will provide little consolation to many people. I move on now to a subject that I have always followed closely and which it is important to raise on an occasion such as this one, because this House voted the funds. In less than two weeks time the European Courts will hear the argument of the Spanish Government as to why they consider that the manner in which Gibraltar was enfranchised for European elections was illegal. For some time it was not clear to us whether Madrid would go ahead with this challenge or not. As the House knows, the European franchise was extended to Gibraltar in 2003. Spain raised objections with the European Commission at the time, which included the question of Commonwealth Citizens, who are not EU nationals, voting in these elections in Gibraltar. Madrid also objected to the manner

of the enfranchisement which was carried out by amending British law alone, and leaving the 1976 EC Act on Direct Elections unchanged. The Opposition consider that the Spanish action is totally unacceptable. We know, that Commonwealth Citizens have been able to vote in European elections in the United Kingdom from the time that they first voted in such elections in 1979. Indeed, they voted also in 1989, 1994 and 1999. Before that Spain had joined Europe in 1986 and they raised no objection to the participation of Commonwealth Citizens in the three elections that took place immediately after they joined. It was only after the same United Kingdom franchise was extended to Gibraltar that Madrid became concerned. It is clear that this action, even though it may have repercussions in the United Kingdom itself, is an action which is aimed at Gibraltar and which has come about as a result of the extension of the euro-franchise to Gibraltar. The Opposition condemns the present Spanish Government for continuing with an action that had been commenced by their predecessors. It runs against the spirit of the European Union and the very basis of democracy itself. We trust that the whole House will share this sentiment and I am sure that we will, to use a well-worn phrase, monitor the situation closely.

On another matter and as my colleague has already indicated, we await the resumption of constitutional negotiations between Gibraltar and the United Kingdom. As the House knows, the Opposition was keen to give the process some urgency from the moment that the Select Committee was formed in 1999. The first meeting between the Gibraltar and British teams took place in December 2004, almost a year after the document had been formally put forward to the British Government. The policy of the Opposition is that Gibraltar should be decolonised in accordance with the document that this House had signed up to. This provides a framework for decolonisation under what is generally known as the fourth option. Our view is that the Second UN International Decade for the Eradication of colonialism, must also see the eradication of colonialism in Gibraltar. It would be totally unacceptable that colonial rule should continue here in this small corner of the planet, and

cease to exist everywhere else. The Opposition would like to see the early resumption of our decolonisation negotiations with the colonising power leading to a speedy and satisfactory conclusion.

I move on now to my portfolio of Trade, Industry, Tourism and Heritage. When looking at the research and the work that needed to be done for this year's budget, it struck me that there were several recurring themes in relation to the way in which Gibraltar has been governed. These themes cut across the different Government departments and I dare say across the whole business of Government itself. Many of them have been well rehearsed in this House over the years. I will start with what I have chosen to term announcements that do not happen. This is not a new accusation levelled at the Government benches. I am sure they have heard it all before. Indeed, in my address last year I remember highlighting the e-Com venture, the Gibraltar-Morocco cable link and the Power Chips PLC plants as examples of projects that were given publicity, where expectations were generated, and which then failed to materialise altogether. This year, in the context of Trade and Industry, pride of place must go to the Gibraltar Development Plan. This plan is the one that divides Gibraltar into development zones. It gives an indication to developers, to potential home-buyers and to ordinary members of the public as to the different types of land use that the Government would like to see in different parts of Gibraltar. It is therefore a reflection of Government policy. The Improvement and Development Fund at Head 104 Sub-Head 4 shows £13,000 forecast outturn for this item and provides an estimate of a further £12,000 for this financial year. About half of the previous estimate has been spent.

As this House knows well the last such plan dates back to 1991. It is now hopelessly out of date and should have been updated and replaced four years ago. But the Government are clearly not in a hurry. Given that there are no guidelines and given that there is no plan, it means that Gibraltar is now in the grips of a development bonanza without knowing the benefit of what

overall Government policy actually is. The impression people have, is that the Government have unleashed a development free-for-all for which there is no strategy and no master-plan. When I asked the Minister in this House in the first meeting of 2004 at what stage the development plan was, the Minister replied that the estimated time for this development plan to be completed was the end of 2004. That is to say, the end of last year. During the budget debate of last year, the Minister said that the intention was for the plan to be completed during the course of the last financial year. In October 2004, I asked the Minister again whether there was a target date for the publication of the draft Development Plan. The Minister replied that the target date was early 2005. The end of 2004 has gone by and we are now nearly half way through 2005 and still there is no plan. In his address a few moments ago, the Minister indicated that a draft plan is expected some time in this particular calendar year, so we will have to wait and see whether that materialises. In the meantime, the GSD Government have shamelessly continued to place private profit over public needs with regard to development projects. Planning permission has been granted for more and more development projects consisting of luxury apartments. We need look no further than the so-called Mid-Town project which, we understand, has already been given outline planning permission. This is for residential, commercial and office use.

The project is made up of several components. Planning permission was originally requested for a 115 metre tower, which, to give the House an idea, is on level with the entrance to the waterworks. There is also a second residential tower, 48.5 metres high which is roughly the height of Governor's Street. Quite apart from the huge tower and the smaller tower, quite apart from the space-age dome which will be placed on top of the historic King's Bastion, quite apart from the fact that the development is in the centre of town as opposed to on reclaimed land on the periphery, quite apart from all this, it is clear from the answers given when questioned on this subject that the Government cannot guarantee that the deal that they have signed up to is the best possible deal for Gibraltar. As this

House knows, the Government have agreed a deal which will provide a leisure centre, a park, a car park and a school. This has been valued at £10 million. The analysis of the Opposition is that the project has been undersold. Land in the private sector was changing hands at that time at £1,250 a square metre. This was for a one-storey development. In our assessment this means that at those rates the mid-town project should have been sold for much more. Indeed, the Government themselves confirmed that their own assessment of the value was based not on the area, but on the number of storeys that the development would have. By that assessment also, it is clear that the land for the project would have an even greater value. It is already clear that more and more Gibraltarians are being pushed out of their country because they cannot afford to live here. The Government have for eight years allowed the construction of expensive luxury flats which are beyond the reach of ordinary people, without laying a brick for those at the other end of the market.

The profile of the Rock is the physical symbol of our homeland and our national identity. There is a danger that in the current development frenzy all this will be lost. In the future, if things continue the way they are, there is a risk that when looking at the profile of the Rock from the Bay all we will see are skyscrapers blocking the view. Maybe if we are lucky, we will be able to make out a small piece of Rock peering out from the top with the Union Jack on it - and even that, only if the funicular has not got in the way by then.

The Development Plan is not alone in the area of announcements which have never materialised. The House will recall that ever since 2003 we have been questioning the Government about the elusive Minister for Tourism of Morocco. Let me recap for a second for the benefit of those Members who were not here. Following an edition of FITUR in Madrid, the Government announced an intention for an official visit to Gibraltar by the Moroccan Tourism Minister and another to Morocco by the Hon Mr Holliday. In the first meeting of 2004 I asked in this House whether a date had been set for

this meeting. No date had been set, apparently first due to the security situation in Morocco itself. We were told no official visits were taking place between March 2003 to the summer of that year. The second reason for no visits were the elections here in Gibraltar which took place in November 2003. Therefore in April 2004 I asked the question again. Once again the answer was that no date was in the pipeline. Although tentative dates had been set before the Madrid bombing, the visits were postponed in the light of what happened. New dates had not materialised at that time. In fact they have not materialised at all since and the visit has not taken place. This is yet another example of the Government generating expectations through announcements that they make, and in the end those announcements come to nothing.

Another separate point is the lack of air links between Gibraltar and Morocco which may also explain why the visit has not taken place. As the House knows, when the GSD came into Government in 1996, there were regular scheduled flights between Gibraltar and Morocco. The Government's attempt to renew this with Regional Airlines proved to be an expensive flop, and to date nothing more has materialised. On another matter, also in 2003, this time during the budget of that year the Minister said, and I quote, that "the main project that will be carried out is the enhancement of Europa Point". He went on to give a detailed account of what the Government intended to do. A lot of this is going to sound familiar because the Minister has just announced it again. This included the demolition of buildings, developing a picnic and leisure area, improving the mound and providing car parking. I reminded the Government last year at Budget time that none of this had happened. Here we are two budgets later and we are still waiting for what the Minister himself described as the main project of 2003 and which he has announced again.

Moving on now to commercial affairs, I come to two matters that anyone listening might be misled into thinking are close to Government's hearts. The first is eliminating unfair competition posed by cross-border traders and the second trade licensing

reform. These are issues that the Government raise once a year at budget time and then spend the next twelve months doing nothing about. Indeed, I recall that ever since 1999 when I started shadowing commercial affairs, both these issues would get brief mentions in the House and then nothing would happen. The tradition has continued since then. The Minister has not mentioned unfair competition, which he may have given up on, he has only mentioned trade licensing reform which is still at a draft stage and which Ministers have yet to consider.

In his Budget address last year, the Minister for Trade and Industry again made routine references to both matters. We were told that the Trade Licensing Ordinance needed fine-tuning and that he intended to bring proposals for changes to the Ordinance during the course of the last financial year. On unfair competition, the Minister was much more vague, and he simply said that the Government would be examining the problems and putting solutions in place. We know the problem. The problem is that traders in Gibraltar have very high overheads and are subjected to considerable red tape which cross-frontier traders are not subjected to. Indeed, the House heard recently of the problems faced by local diving companies in the face of such competition from businesses based in Spain who bring their clients in through the frontier to dive in our waters. They are not regulated or controlled and make no contribution to our economy of any kind. The livelihood of local businessmen is being put in jeopardy by the inactivity of the Government on this front and their inability or unwillingness to tackle these issues.

Much the same thing has happened in relation to e-Commerce. When Gibraltar was among the first to transpose the Electronic Commerce Directive and the Electronic Signatures Directive, the Opposition made the point that this legislation alone would not bring e-Business here. All the more so when our law continues to be incomplete in relation to computer misuse legislation which specifically outlaws this activity including hacking. The United Kingdom has long had a Misuse of Computers Act in place which regulates unauthorised access to computers. It is completely absurd that in this day and age computer hacking in

or from Gibraltar has not been expressly outlawed. In certain respects it is obvious that as far as e-Commerce is concerned we have missed the boat. Also during the budget of 2003, the Minister for Trade and Industry announced, and I quote, that "during the course of this financial year the Government will 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." The Minister announced very much the same thing again today in his address. The plain fact is that traders have actually been trading on the internet for years and not thanks to anything the Government have done. Indeed, had businesses waited for the e-Commerce house project to materialise then Gibraltar would be even further behind in this field than we are already.

But it has to be said, that there are some things that the Government have proved to be incredibly good at. One of those things is eating. This is something popularly known as "comelonas" in Spanish. And how they eat. Let nobody dare say that the Government of Gibraltar do not look after their guests properly. Over the years hundreds of thousands of pounds have been spent in entertaining Government Ministers and their guests at receptions held at lavish venues like the Savoy in London. I have been able to draw up a compilation which covers only the last year or so and is drawn mainly from the Tourism budget. So what do we have? We have a dinner in Brighton in March 2005 which cost nearly £6000. A reception for Gibraltar Day in October 2004 where the food and wine cost over £23,000. A canapés and finger-buffet in Manchester which cost over £5,000. Let me say by way of an aside that at this point that I am not clear at all as to what the difference is between a finger buffet and a reception but be that as it may I will continue. A reception and entertainment at the World Travel Market which cost £2,500. A dinner at FITUR which cost £1,400 for 23 journalists. This is topped by a dinner hosted for only seven Spanish journalists who were brought to Gibraltar and which cost over £1,000. This selection of dinners, receptions and finger buffets cost nearly £40,000. At the opening of the

first day of the Budget Session, the Government laid on the Table the Receipts and Payments for the Tercentenary. Looking through them I also saw some additional ones which were the Savoy Hotel reception, which cost £37,000, the House of Lords dinner which cost £7,000 and other receptions in London which cost £4,000. That is £48,000 more in addition to the £40,000 which I just described. In such circumstances, it serves as cold comfort for the House to know that the Government partying machine goes from strength to strength. They certainly know how to throw a party at somebody else's expense.

Much of the money for the events which I have just listed comes from the Tourism budget. In the financial year 2003/2004 the actual spend under this sub-head topped the £1 million mark for the first time. In any value for money analysis it is relevant to establish how much money the Government have spent and then see how that compares with the return on the investment in terms of visitor numbers. From the financial year 1997/1998 until 2004/2005 the spend has been as follows: £863,000, £785,000, £825,000, £759,000, £950,000, £950,000, £1.02 million, and £800,000. This is a total of £7.04 million in tourism marketing alone since 1997/1998. This comes to £880,000 a year on average. Let me emphasise that this is not the entire tourism spend, which comes to much more, this is only the marketing budget. The regular Government boast about the number of visitors who come to Gibraltar has to be seen in the context of that expenditure. It is also worth recalling that there were already 6.5 million visitors to Gibraltar in 1996, which was the year in which the GSD came into office. They sometimes give the impression that the tourism figures started from zero in 1996 and that they increased visitor numbers from zero to seven million unaided. They started at 6.5 million. The view of the Opposition is that the sums of money that have been spent are completely disproportionate to the results obtained. Indeed, before the GSD came into office proportionately better results were being obtained with considerably less money.

A significant amount of the marketing budget is spent to attract more visitors from Spain. This component of our tourist market, tourism by land, makes up the bulk of our visitor arrivals, with a comparatively smaller amount coming in by air and by sea. The latest figures show that in 2004 there were less visitors coming in through the frontier than there had been in 2003. Therefore at a time when the Government continue to spend large sums of money in trade fairs and in marketing Gibraltar in Spain, we actually received less visitors from Spain. This year Gibraltar's participation at FITUR cost over £25,000. Seven persons made up the official Gibraltar delegation including the Minister. A dinner was hosted for 23 Spanish journalists at a cost of £1,400. On 20 April and 8 June tourism workshops were hosted by the Tourist Board in Madrid and Barcelona. We also learnt that the Government had decided to participate in smaller, specialised tourism exhibitions in Spain, like Turisport which took place in October, in an effort to attract more people. But when I asked the Government what was being done to monitor the results of this new approach the answer was that nothing specific was being done to monitor this. In the final analysis, it is clear that once again we do not know what impact the new strategy is having. Gibraltar also went to the SITU tourist fair in April 2004 and this cost nearly £2,000. Also in relation to Spain it cost a further practically £4,000 to bring seven Spanish journalists to Gibraltar in October of last year. It was around this time that a new strategy was announced to position Gibraltar as a new product in the long-weekend or "puentes" market in Spain. I would have thought that anyone who has been walking up Main Street on a Spanish "puente" over the last few years would be forgiven for thinking that Gibraltar was already somehow positioned in that market. The main plank in the coordination of the Government's strategy in Spain is the Gibraltar office in Madrid. I do not know what the problem is but in terms of staff issues it certainly appears to be jinxed. Hon Members will recall that shortly after the office opened it had to close down again for many months due to the difficulty in finding staff. At one point there were staff members from Gibraltar commuting to Madrid on a regular basis, presumably to check the mail and the answering machine. I

think I am not wrong to say that the office has had a vacancy of one kind or another for a very high proportion of the time that it has been in existence. In March the Government advertised for the post of Marketing Co-ordinator because, the Minister told this House, the previous post-holder had resigned and moved to Greece. The advertisement made clear what the requirements or qualifications for the post were. Six persons applied and five were short-listed for an interview. The five were interviewed and according to the Minister none were found to be suitable for the job. Further questions in this House revealed that none of the five had the advertised qualifications anyway, but regardless of this the Government still went ahead with the interviews only to conclude the obvious at the end of the process. The post has now had to be re-advertised. So, we have no Madrid office, then an office, then staff, then no staff, then temporary staff from Gibraltar, then an advert, and then persons interviewed even if they did not meet the requirements laid down in the advert anyway. I do not know whether the Government are familiar with the old "Carry on" series of comedies. We wait with bated breath for the next episode in the long running saga of "Carry on Madrid Office". But movies do not come cheap. It should be noted that the estimate for the cost of the Madrid office in this financial year is £113,000. Although this does not come from the tourism budget, it is nonetheless part of the pool of money that the Government are spending in order to attract more visitors from Spain.

I move on now to coach arrivals. As the House knows well the number of coaches coming into Gibraltar and the number of coach passengers is in free fall. In fact last year, in 2004, Gibraltar received the lowest number of coaches since 1996. It is logical to have expected this figure to increase, given the level of the marketing spend in Spain. Instead it has gone down. In the same way as the Government like to ignore certain facts when it does not suit them, they also like to invent excuses when things go wrong. The reason for the continuing decline in coach arrivals is a case in point. I have been told on different occasions that the reason for the slump was: (a) the aftermath of September 11th; (b) the fall in the number of visitors to Spain;

(c) the problem posed by road communications, this meaning the poor access to Gibraltar before the stretch of the N340 was widened and before the toll motorway was in place; (d) the high exchange rate of the euro to the pound. All these excuses offered by the Government have been exposed for what they are nothing more than excuses. I will look at each of them in turn.

For the purposes of clarification, let me say that the September 11th the Government refer to constantly is of course September 11th 2001. They tend to refer to this tragedy in different ways. First it was plain and flat September 11th, then it was the, and I quote, "aftermath" of September 11th and last year in his budget address the Minister with responsibility for Tourism referred to the, and I quote again, "aftermath of the shock waves of 11 September." Maybe next year, it will be the consequences of the aftermath of the shockwaves. Be that as it may, the point is that this excuse has now worn extremely thin and this year the Minister did not use it, so maybe he does not next year either. The second argument in relation to coach arrivals is also easy to rebut. Tourism from Spain to Gibraltar was going down at a time when tourism to Spain and to the Costa del Sol was going up, with hotels full to capacity. As we all know, it is now several years since the N340 was widened and the toll motorway was constructed so this access problem does not exist any more, and has not existed for some time. Finally, the arguments used with regard to the euro did not apply last year.

So these are the four excuses which the Government have traditionally given to explain the drop in coaches and in coach visitor arrivals. On examination none of the four are valid. However, the latest excuse I was given last year was the best one of all. The Government explained that coaches were indeed coming into Gibraltar. The problem was that they were dropping off tourists without going to the coach park and therefore were not included in the coach figures. This was an explanation given by the Chief Minister and not by the Minister for Tourism, I should say. I confess that in six years of shadowing this Ministry this was something that I had never heard before. The

Opposition were always under the impression that coaches were counted at the frontier for the purposes of coach arrival statistics and not at the coach park. Therefore, at the first opportunity I questioned the Government on the matter in this House. Can Government say, I asked, whether all the data for the Frontier Statistics Table supplied to the Opposition is collected at the frontier and tell the House who is responsible for gathering such data and for compiling it? In his reply the Minister confirmed, and I quote, "All the data for the Frontier Statistics Table supplied to Opposition Members is collected at the frontier and is gathered and compiled by Security and Immigration Ltd." I then asked the Minister whether this included cars, coaches and pedestrians. The Minister confirmed that this was so. On further questioning it was revealed that there is also a separate count at the coach park but that this is to account for revenue and ticketing admissions paid by coaches. However, this second count at the coach park has got nothing to do with the issue. It only served last year to mislead and confuse matters. The point is that coaches come in through the frontier, are counted at the frontier, and that this is the figure that continues to drop year after year. Indeed, it is a matter of concern to the Opposition that in the first quarter of this year, 2005, the trend has continued and that there are already 239 coaches less than there were last year. Moreover, this continued drop comes at a time when Spain has received the highest number of tourists on record. The Government have done nothing to arrest this decline.

I move on now to cruise issues. The accuracy of the expenditure by tourists in Gibraltar shown in the Tourism Expenditure Survey is something that both sides of the House have questioned in the past. It will be recalled how one year the survey showed that the number of visitors from Morocco staying in hotels and spending money in Gibraltar had shot through the roof. This had a knock-on effect on the level of tourism expenditure shown in the survey. When this was highlighted by the Opposition at the time, the Government were not convinced. It was subsequently discovered that Moroccan workers returning to Gibraltar every weekend had been categorised as tourists

staying in hotels, and this accounted for the sharp rise in expenditure. A further source of inaccuracy still exists, this time in relation to cruise passengers. The 2004 Survey shows that cruise passengers are the highest spending tourists category. The average expenditure per person per day is given as £44.74. The survey also shows that there were a total of 162,780. These two figures were then multiplied to give us a total spend of £7.3 million. However, when the Government were asked in this House to give the figure for arriving cruise passengers who actually disembarked from the ships, the answer was given that the Tourist Board does not keep a record of disembarking cruise passengers. In other words, persons are counted when they arrive in Gibraltar through the frontier or through the air terminal but they are not counted at the Cruise Liner Terminal. On further questioning the Minister indicated that the figures that the Government publish in respect of cruise ship passengers are the figures that are being carried by the vessel when they call at Gibraltar and this figure is used to calculate passenger tax. The Minister added that whether they disembark or not is irrelevant. It may be irrelevant for the purposes of passenger tax. It is very relevant for the purposes of tourism expenditure. All the indications are that cruise tourists who stay on the ship are included in the arrival figures and shown as having disembarked and having spent money in Gibraltar, when in fact they have done nothing of the kind. The Opposition have long argued that the key factor when examining the development of the cruise industry in Gibraltar is to put it into context with what is happening elsewhere. In other words, whether we have more ships or less ships, whether we have more cruise passengers or less cruise passengers cannot be significantly analysed in isolation from what is happening everywhere else. One minor example is this. This month we celebrated the arrival of the one millionth cruise passenger to Gibraltar since the Cruise Liner Terminal opened in 1997. That is to say, the one millionth in eight years. Firstly, it is probably not the millionth one at all, as passengers who have stayed on board have been counted as if they had come ashore.

Secondly, if the Opposition wanted to emphasise the point, they would highlight the fact that both in 2003 and 2004 the Port of Barcelona received over 1 million passengers each year. A million in 2003 and a million more in 2004. The Port of Genoa received one and a half million passengers combined from 2002 to 2004. Even the Port of Dubrovnik in Yugoslavia received over a million in the same time period. I make reference to this purely and simply to illustrate the point that everything needs to be put into context. This year, instead of looking at Cadiz and Malaga again, the Opposition have produced a statistical compilation of 19 ports, which places Gibraltar in position No. 19 in terms of rates of growth from 1996 to 2004. While Gibraltar is in a growth rate of 67 per cent on available figures, Lisbon is on 109 per cent, Alicante 152 per cent, Barcelona 265 per cent and Valencia 452 per cent. The case of Malta is particularly interesting. Malta had 72,000 cruise passengers in 1996 at a time when we had 96,000. In 2004 Malta received 389,000 while we received 160,000. They more than doubled Gibraltar's total in terms of cruise passenger arrivals. Malta has grown by 438 per cent while we have grown by 67 per cent in the same time frame. It is an undeniable fact that other cruise ports are doing much better than Gibraltar and it is our responsibility to voice our concerns in this House. The Opposition want more cruise ships and more cruise passengers to come here. We share the Government's objective in that we too want Gibraltar to do well. Given that the Government have spent a total of £7 million on tourism marketing alone since 1997, it is our obligation to question why others are doing better than we are.

I move on now to the subject of air communications. It is the policy of the Opposition that there should be more airlines and more air routes to and from Gibraltar. When the hon Members came into office in 1996, there were five. Some of these routes were lost and the Government have spent the past nine years getting them back. For example, Heathrow and Manchester already existed in 1996, they were lost and have now come back on stream. The Opposition welcome this development because it is in line with our policy, but this does not give Gibraltar anything that was not already there before, and we still

have no air links with Morocco. On a connected subject, I would just like to touch on air visitor arrivals. The Government continue to make much of the fact that this figure now stands at 134,497. What they tend not to highlight is the fact that the bulk of persons flying to Gibraltar are now passengers in transit to move straight to Spain. Therefore, what has increased is not the number of tourists flying to Gibraltar to stay in Gibraltar but the number of tourists flying to Gibraltar to go to Spain. The fine balance between visitors in transit and visitors staying in Gibraltar has now tilted decisively in favour of those that go to Spain. More and more air visitors to Gibraltar are going to Spain. This year there were 61,663 in 2003 and there were 75,846 in 2004, this is an increase of 14,000 in one year, what this means is that there is no proportional impact on our hotels despite the increase in activity of Gibraltar Airport. With the re-establishment of Manchester and Heathrow the number of hotel arrivals is static and in fact is marginally down. I need not remind the Government that their policy was to increase air travel to Gibraltar in order to attract more people to stay in our hotels, and not in order to attract them so they could stay in hotels in Spain.

In conclusion, it was logical to have expected that tourism would have taken off in 2004 because that was our Tercentenary year. Indeed, the Minister for Tourism himself in his budget address of last year pointed to this expectation, and referred to, and I quote, "considerable activity as a result of Tercentenary year." This was the main heritage event of 2004 and I should emphasise that a centenary only comes round once every hundred years. There is no evidence to suggest that the Government capitalised on this in order to attract more tourists around the different events that were being planned. Last year the Opposition warned that this would happen. We said that the confirmation of events in the calendar was being left too late. This year the official figures for 2004 give credence to our prediction. It is a glaring indictment of the Government's tourism policy that the total number of tourists coming to Gibraltar in Tercentenary year 2004 was actually less than what it had been the year before when there was no Tercentenary. This was so

despite the fact that the Tercentenary was advertised on 40 London taxis, to the tune of over £9,000 a month, from October 2003 to October 2004. About £100,000 was spent on this venture alone. Against the background of Tercentenary year in 2004, and against the high level of expenditure, there can be no doubt that the tourism policy of the Government has not delivered value for money. This value for money yardstick, is the criteria that the Opposition use every year to measure the success or failure of the Government in this regard. This year the lower visitor arrivals speak for themselves. Before closing, I would like to take the opportunity to thank the Clerk and the staff of the House of Assembly for their help and support throughout the year. Thank you Mr Speaker.

ADJOURNMENT

The Hon the Minister for Health moved the adjournment of the House to Tuesday 28th June 2005 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 4.55 pm on Monday 27th June 2005.

TUESDAY 28TH JUNE 2005

The House resumed at 10.05 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

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:

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

**THE APPROPRIATION (2005/2006) ORDINANCE 2005
(Continued)**

HON CHIEF MINISTER:

Mr Speaker, I have listened with interest to all the contributions from the Opposition Members including, courtesy of GBC Radio, to those who spoke whilst I was absent from the Chamber. The Hon Miss Montegriffo should know that I would not miss her annual performance for all the money in the world. What struck me about the common theme of all their contributions was the contrived and orchestrated themes that run through them. To the extent that we end up with the Hon Mr Linares expressing views about the economy, all negative, no alternative vision, no alternative policies, comment with no suggestion of what they would do differently, simply designed to criticise everything, to acknowledge no achievement on the part of the Government, to undermine everything, to slur and to smear, to discredit. In short, the sole purpose of the political role of the Opposition Members appears to have become to undermine the credibility of the Government in general, and its Chief Minister in particular, in the hope that somehow that will persuade the electorate to vote for them next time.

Well, I believe that the electorate will not vote for parties that do not offer them anything. Electorates do not vote for parties simply because they have employed four year's worth of negativity, four year's work of no vision of their own, four year's

worth of trying to air brush their own history, in the hope of persuading the electorate not just that the Government are a bunch of incompetent idiots who do not know what they are talking about and use figures which are nonsense and take too long to do everything, but also to persuade the electorate that they are political virgins. That they are political virgins whose own performance in Government is irrelevant when considering the degree of sincerity and credibility that should be given to their political criticisms of the present Government. Well I have news for the Opposition Members, Panorama Opinion Polls notwithstanding. The people of Gibraltar are not that fickle and as the hon Member has found out to his cost in three successive elections, the people of Gibraltar are not that easily conned politically or in any other sense. There is practically no substance whatsoever in what must rank as some of the poorest Opposition contributions in terms of substance, certainly that I have heard in this House. As I go through, let me just illustrate the last remark. There are some hon Members contributions that I have frankly struggled to find anything to respond to, anything that is new, that was not said last year, anything that represents a political point of the sort that I can respond to. Therefore, for the first time in many years, there are some hon Members whose addresses I may just refer to in passing and not deal with specifically.

For those hon Members that have made the central tenet of their speeches this systematic characterisation of the Government as untrustworthy, misquoters of statistics, inconsistent staters of declarations in this House, I intend to demonstrate that it is not us who do that but the Opposition Members, who simply do not deserve to be treated at their word when they speak in this House, who systematically, as a matter of system, set about to misquote and to misrepresent and to distort, and to attribute words and sentiments to the Government only for the purposes of them building on the back of it an accusation against the Government of something or other, when it is their own initial premises that is the fabrication. I am almost tempted to start with the Hon Mr Picardo's speech, which was far more wide-ranging in its nature than the Leader of the Opposition, and of

course, if I were running, as they do, a political weekly publication the editor of my back page satirical article.

HON F R PICARDO:

Point of order. I assume the Chief Minister will not give way but I have to make a point of order. The hon Gentleman has referred to the Opposition running a political publication weekly. The Opposition do not run a political publication weekly and I would be grateful if the hon Gentleman would be directed to take back that remark. First of all perhaps he could identify the publication he means, and secondly, he could perhaps realise that there is no way that he can connect that to the Opposition as a publication which the Opposition run.

HON CHIEF MINISTER:

Mr Speaker, I withdraw nothing, and if the hon Member wants to persuade the people of Gibraltar that the publication that passes by the name of 'The New People' is not a publication of the party in which he is now a Member, good luck to him, but I am certainly not withdrawing a word that I have said.

MR SPEAKER:

Would the Chief Minister accept that the suggestion, or the allegation that the Opposition are running the newspaper needs to be substantiated?

HON CHIEF MINISTER:

No, perhaps the hon Member will say whether he, and a previous Member of the House Mr Juan Carlos Perez, both now and when he was a Minister, were regular and still are regular contributors to that paper. If he denies that categorically, and if

he says in this House that no Member of the GSLP upper echelons, either executive or Elected Members, contribute to the publication of that newspaper, then I would consider withdrawing the technical remark that they are involved in directly running the newspaper.

MR SPEAKER:

Is there no distinction between running a newspaper, which suggests control of the newspaper, as opposed to merely contributing one or more, as many articles as one wishes as often as one likes?

HON CHIEF MINISTER:

Well, the Government believe that that is the case. The Government believe that the Opposition Party effectively run the newspaper. That is what the Government believe.

HON F R PICARDO:

As Mr Speaker said in his own ruling on this point of order, the Chief Minister will have to substantiate that remark and I am grateful therefore, because I interpret Mr Speaker's ruling therefore as being in the Opposition's favour. The hon Gentleman is not able to substantiate that remark. I am not here to answer his questions, but in any event, I am quite happy to say that I contribute regularly, also to the Gibraltar Chronicle when I publish opinion pieces there, to the Panorama et cetera.

MR SPEAKER:

Well, the Chief Minister has indicated that he, or his team, believe. It is a matter of belief, I will allow the Chief Minister to continue.

HON CHIEF MINISTER:

The Leader of the Opposition started his address by saying, I quote, "in doing so I will start off by pointing out some of the inaccuracies in the statement made a year ago by the Chief Minister, which I was not in a position to answer on the spot without the benefit of the written record. The Chief Minister picks out at random figures to support his arguments which are totally meaningless, and does this year after year and whenever we in the Opposition question the accuracy of the things that he says, he simply resorts to accusing us of speaking rubbish, delivering a diatribe, of being absurd and a whole list of adjectives. No doubt I am inviting him by what I propose to say, to react in his usual manner again this year, given the absurdity of some of the arguments that he has used over the years, one has to wonder whether in fact he knows that what he is saying is not true and does not care, or that he really does not know what he is doing and what he is talking about." Well, I knew that he could not substantiate that remark, but certainly I would have expected to find a remark as general and as wide-ranging in its characterisation as that, to be followed up by more than one, or more than two, in fact neither of them are, but at least more than two attempts to demonstrate this accusation of systematic ignorance, of systematic misrepresentation of statistics, or of systematic misuse of statistics. It boiled down to two, neither of which sustain the insinuations or implications of his remark. His first attempt at illustrating that was the following. I quote again, "he opened the Budget debate a year ago by telling the House that "in 2001/2002 GDP grew from 433.6 to 470.2, an annual economic growth rate of 8.4 per cent", which he then went on to tell the House that he had never challenged and nor had anybody else to his knowledge. However, he went on to tell the House that I had felt obliged to try and demonstrate its accuracy by reference to other factors. He then said the following, I quote again. Referring to me the Leader of the Opposition says, "he also went on to say this growth in the economy is reflected in the many other economic indicators, including the rise in the number of new real jobs in our economy, which increased by at least 600 in the year 2003." The point that he was making is 'ah, see,

the Chief Minister does not know what he is talking about, quotes statistics at random and either does not care about the truth of what he says or does not know what he is talking about, one or the other, no other possibility, all because he chooses to put a particular gloss on the words 'this growth'. Well, it must be obvious to him that it must be obvious to me that a measure of growth as at March 2002 is not co-extensive in time statistically with the amount of jobs in the economy in October 2003. Or does he really think that I was saying to the House 'see, here is the same measure of economic growth, demonstrated by two separate comparable statistics. On the one hand, economic growth in the year to March 2002 and on the other hand the number of jobs in the economy in October 2003, merely 18 months later', because that is what he must assume I meant, intend to mean, for his accusation for either of his alternative explanations to be true. I shall read to the House what I said last year: "This growth in the economy is reflected in many other economic indicators. Many other economic indicators which I will mention later". Then I went on to mention many others. I do not see why he has not taken the same view as all the others. Why did he not say the Chief Minister chooses figures at random, does not know what he is talking about, or does not care, when he said that the Finance Centre had grown in 2003? What is the relevance of that to this economic growth, which he for the purpose of building his edifice, building his cathedral of denigration, assumes and declares to mean that this economic growth is the percentage that was being referred to, because if he is right in his interpretation, it does not just apply to the economic statistics. It does not just apply to the growth of what I said were the employment levels in October 2003, it refers to all the other economic indicators which I mentioned throughout my Budget speech, all of which were alluded to in that same sentence. 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 2003. All the facts required to enable the hon Member, if he was not driven by the motives that drive him, to understand that the Government fully understand the generalisation and the summary, this is in the

introductory paragraph, are there. Having said that there is absolutely no semantic justification, or in terms of the content, the substance, of the sense being transmitted for his interpretation. Even his interpretation, which is clearly not the correct one to attach to my words, but even as interpreted by him the remark is not as nonsensical as he makes. No it is not nonsensical as he says, or does he think that one year's economic growth does not reflect in the number of jobs in the economy next year? Does he think that if the economy grows one year that does not reflect in the levels of employment that the economy is capable of sustaining the next year? It is not what I meant but even what he attributes to me as my meaning does not sustain the abuse to which he has put the quotation in his opening address.

The Chief Minister has over the years perfected the art of selective interpretative quotations of what other people say, to spin whatever case he wants on the back of it. He then went on to say last year that in the year ended March 2004 there was a small operating deficit of £1.334 million. This was, as I showed last year, at best misleading. I will quote him accurately: "at best a misleading statement because the Estimates show £5.988 million of deficits carried forward in Government Agencies." Well, the hon Member has to decide once and for all, what he cannot do is hop around depending on what suits him. The hon Member can decide once and for all whether we are talking about the surplus or deficit in the Consolidated Fund, which is technically what we are debating here and what the House is voting on, or whether he is talking about the overall revenue and expenditure position of the Government, more widely defined to include the agencies and the authorities and things of that nature. What is misleading in that statement? In what sense are the Government, or I, misleading the House and by definition the general public? When in a statement of financial position that relates only to the Consolidated Fund, in other words, actual revenue and actual expenditure borne by the Consolidated Fund that year, Government Departments and things which this House votes on, and also which is mathematically correct, but also a privilege as I will go on to

explain now as enjoyed by them in Opposition but we did not enjoy when we were in Opposition, also sets out for the benefit of the House gratuitously, unnecessarily and without any requirement of law, a number of appendices at the back of the Estimates Book which enables the Opposition to see the deficit position, or the surplus position of the various agencies and authorities, which is what enables him to see that there are deficits carried forward in the first place. How is it capable of being misleading to set out clearly and in a way that is not required of me, all the information that enables the House to see that whereas in the Consolidated Fund there is a surplus, there are deficits carried forward in agencies. Of course, when the hon Members were in Government, the Opposition did not have the luxury of doing that sort of forensic exercise, as he calls it, because only about 50 per cent of the Government's revenue came before the House at all. The other 50 odd per cent was in companies and special funds that the House never voted on, never had in front of it at Estimates time. So I was not able, when I was Leader of the Opposition, to conduct a forensic exercise to see if the Health Authority was spending more or less money than had been authorised at Estimate time, because in the equivalent of this debate when we were in Opposition, we did not even have the forecast outturn figures for the Health Authority for the last year or the estimate for the forthcoming year. We, who have reconstructed public finances to remove the secrecy to which he had systematically subjected them, he now has the gall to accuse us of misleading this House when we put information in front of it which he took pride in depriving this House of. That is the inescapable reality. The gap is not as they say between what the Government say and reality. The actual gap is between reality and what they say.

If the Leader of the Opposition is interested, and if he is in future years I am certainly happy to include this information in my presentation of the Estimates, which is not strictly required because when debating in terms of the public finances we are debating the Consolidated Fund. But I acknowledge that in terms of the underlying state of health of public finances, it is entirely legitimate for the hon Members to look wider than the

Consolidated Fund. Of course, they have to look less widely away from the Consolidated Fund, we had to look away from the Consolidated Fund, which we were never able to do, for 50 per cent. They have to look away for less and we have put that less in front of them so that they can look at it. If the hon Member is going to interpret the state of public finances not on the basis of whether the Consolidated Fund is in deficit or surplus, but whether what is the overall position. In other words, forget deficits carried forward, forget the fact that some things like the Health Authority, and the Electricity Authority and all these things are outside the Consolidated Fund, shove them all together, Government Departments, Health Authority, (Health Authority by the way which has expenditure subsidised by the Consolidated Fund but also a large income stream of revenue of its own from the Group Practice Medical Scheme contributions in the Social Insurance Contributions). The Gibraltar Development Corporation, all of those, shove them together, the hon Member may wish to make a note of the following figures going back to 1997/1998. In other words, the recurrent revenue over recurrent expenditure overall, including the Health Authority, the Gibraltar Development Corporation, and in latter years, the authorities that have been added on. Most recently the Electricity Authority and in this financial year, for which I do not give him figures except in estimate form, the Sports Authority. On that basis, in 1997/1998 the recurrent account surplus or deficit, there is one annual deficit, otherwise they are all surpluses. In 1997/1998 surplus £11.5 million; in 1998/1999 surplus £17.6 million; in 1999/2000 surplus £15.9 million; in 2000/2001 surplus £11.7 million; in 2001/2002 surplus £10.1 million; in 2002/2003 surplus £7.3 million; in 2003/2004 deficit £7.8 million; in 2004/2005, that is to say the financial year just finished in March, surplus £7.7 million. We are estimating for 2005/2006, that is to say the year just started, surplus of £3.8 million.

The hon Member also was highly critical of the Government's decision to charge their own companies a commission fee for the sale of 50/50 home ownership property share sales. The hon Member is entitled to be critical of that if he wants, and if he

wants to say that had the Government not in that year had a budget deficit, that the Government may not have done it, he may well be right. That does not necessarily illegitimise the act. Now, against what he regards as something which is unjustified, which I do not agree that it is unjustified by the way, just as we do not historically, and I do not think it was invented by us I think it was invented by him, the Government charge a management fee to the Pension Funds, the Short Term Benefits Fund in order to reflect the fact that the Treasury incurs all the expenditure, does all the work and that expense is paid for by the Government. Well, the Treasury.....

HON J J BOSSANO:

Can I just correct. It was not invented by me, I think it has been there since the Fund was set up.

HON CHIEF MINISTER:

Well, fine, I accept that. It is not invented by us, what I meant was long standing. In the same way as that, the sales of the 50/50 home ownership schemes were orchestrated, organised, financially marketing dealing with buyers, completion, by the Treasury. It is exactly the same principle. Now, of course, if the hon Member thinks that it is always wrong for the Government, namely the Consolidated Fund, to recoup management charges or commissions in respect of things that it does for things that are not strictly the Consolidated Fund, it will have to be more widely applied than just a poor old commission on the sale of 50/50 homes. I have never heard it argued like that before, and the hon Member might also wish to bear in mind that this is not included, because the overall figure that I have just given him includes the statutory agencies and the Gibraltar Development Corporation but not the Government companies, but the Government's property companies have revenue, they have rental income from Casemates and all the industrial parks. Well, we could have diverted that, and all those projects were mostly

financed by the Consolidated Fund. Well, the Government have revenue ring-fenced in those companies which could have been applied instead of this device. Whether the revenue from the companies amount to the £750,000 in commission income that we charged last year, is probably touch and go, but of that order. This year the estimate for this amount by the way is £150,000 or £160,000. So I certainly do not accept the hon Member's criticisms of the act of charging a commission, and I do not accept his disqualifications of it, even if the hon Member were right in his suspicion but the motives for choosing that year in which to do it was to plug what might otherwise have been, in other words, to boost that years revenue for the purposes of a better picture carried down into the budget surplus deficit situation.

The Leader of the Opposition then went on further to suggest that it was, I quote him: "well Mr Speaker, if saying to him, look, you came to the House before the Election and told people 'I am managing the affairs so well but we are going to finish up with £6.7 million in the kitty', and he comes after the election and tells people, "I am still managing the affairs very well now that you put me back, but in fact, we are not putting £6.7 million into the kitty, we are going to take £8.2 million for the kitty and I was out by nearly £15 million in my estimate. If an Opposition in a democratically Parliamentary system is being politically dishonest in pointing that out and criticising it, then I have to say that I do not know by what standards he expects democracy to operate." See, it is another classic example of shooting at the wrong target, of taking something similar to what I said but not what I said and then making himself sound the victim, not in respect of what I said but in respect of what he declares that I said, which is not the same thing. I did not say that he was not entitled as a democratic politician or otherwise, never mind politics, just as a matter of commentary by anybody. I certainly point out that it was estimated that we were going to get a surplus of £8 million something and actually got a deficit of £7 million. One can comment on that, what one cannot do and this is what I was saying was illegitimate not what he attributes to me, what one cannot do is describe that as the extent of the

financial deterioration, because the extent of the financial deterioration, if that is how one wants to see a budget deficit, the extent of financial deterioration from one year to the next is last year's performance compared to this year's performance. So if last year we had a surplus of £10 million and this year we have a surplus of £2 million, the deterioration is £8 million. That is the measure compared to actual. To say 'at the start of the year you estimated that you are going to do 'x', you actually delivered 'y' and therefore the financial discrepancy is 'x' minus 'y' is Mickey Mouse economic analysis'. But of course it serves the hon Member's purpose because his purpose is simply to discredit the credibility of everything that the Government in general, and I in particular, say, and because that is his only purpose, any however imprecise his attribution of language to me, however imprecise his analysis of the point that I am making might be, however imprecise his own analysis might be, it does not matter and he does not care because his sole purpose is to discredit in the minds of people who are listening or who read the next day's press reports and cannot be expected to know or understand the nuances of who said what and what this means and what the others mean. It is entirely dishonest, dialectic political debate.

The Leader of the Opposition then went on to say in synthesis that another reason that demonstrated that I did not know what I was talking about and that I was doing all sorts of naughty things, is the fact that the budgetary surplus deficit position was not a straight line and did not therefore prove the case that I have always said, that there was a pre-meditated policy by design of reducing the budget deficits. I quote him, 'notwithstanding the obvious attempts that have been made to minimise the size of the deficit and make it look better, the Government deny that they have cash problems as stated last year and continue to state that the disappearance of the surplus is the result of the deliberate policy of reducing the surpluses which they claim they have conducted on a regular basis year in year out.' Once again, we come up with a question mark. Is it that the Chief Minister gets his figures wrong? Is it that he is trying to mislead people? Or is it that he does not know what he

is doing? The facts do not support the statement that it is a deliberate policy. Well I have news for the hon Member, the facts do precisely prove that it is a deliberate policy. I have just given him the figures that show that it is a deliberate policy, because when the Government sit in No 6 Convent Place and in the Treasury, deciding how much of the national cake to hand back to the over taxed taxpayers, how much to spend in improving and expanding public services and how much to invest in capital works, they do not just take into account, just as he did not take into account when calculating the extent of the deficit, the Consolidated Fund. We take into account the whole of the revenue streams and the whole of the expenditure streams because that is the net position that is relevant to the Government's net financial position.

So let us examine the truth of this confidently asserted declaration by the hon Member that either I do not know what I am talking about, or I do not care that I mislead the House and the people of Gibraltar, when I say year after year, I do not know why this is the first time that he challenges me on it I think I have made the point every year that I have stood up in this House to make my budget speech, obviously he has only wanted to challenge it this year because this year is the year that they have decided to make their collective theme the denigration of the Government's credibility on statistics. Every year I have explained in this House, at every General Election I have explained in our manifesto and in our political material, that the underlying principle of the Government's economic policy has been since 16th May 1996, that the surpluses generated year in year out by the Government represent the proceeds of over taxation of the people, and that we would seek about as a matter of specific economic policy objective to reduce those surpluses by deploying them in three different ways. Firstly, we would reduce the level of personal taxation, which we have done substantially. Another thing for which he might be prosecuted for perjury when I come to address the Hon Mr Picardo, this now appears to be the acceptable phrase for saying what was previously unsayable, as I will demonstrate to him that we have reduced taxation, not by 40 per cent but by more. Secondly,

that we would employ some of the budget surpluses in expanding and improving and developing public services. Which we have done. They call it uncontrolled growth in public expenditure, we call it investment in the Health Service, investment in Education and investment in Social Services. Thirdly, as I said we would do, we would use the surpluses as capital to fund, for as long as possible, the Improvement and Development Fund expenditure without having to raise reserves and without having to go for debt more than necessary. We have done that and the hon Member's powers of economic analysis cannot be that blunt that he does not understand that even in a growing economy if one reduces the share of revenue by lowering taxes, reduces income and increases expenditure, it does not require the economic expert that he claims to be to know that if revenue goes down and spending goes up, the surplus goes down. I have got eight year old children who understand that. The facts demonstrate it, because when the hon Member says that the figures of the budget deficit do not bear it out, again, he uses the wrong figures. He is the one who quotes figures at random in a meaningless, misleading way, because when trying to demonstrate that this is not a policy by design but somehow something that we get hit in the face with at the end of every financial year, and do not understand that the implication of falling revenue and rising expenditure is narrowing the gap in between the two, which is called the surplus, no. In order to demonstrate that he goes back to his old trick, he compares not the actual revenue with the actual expenditure to establish the actual surplus, no, he compares the estimate with the outturn as if that were a measure of reducing surpluses. It is a measure of nothing. The figures that I have just given him demonstrate beyond peradventure, the gradual, systematic reduction in the overall surplus of revenue over expenditure, in all of eight years that have passed, with the exception of one finishing with a deficit. In other words, we overshot the balancing act. We increased expenditure by too much more than revenue fell in that year, or how else does he interpret £11.5 million, rising in our second year of office to £17.6 million before our tax measures and things of that sort had taken effect, then reducing from £17.6 million in 1998/1999 to

£15.9 million, £11.7 million, £10.1 million, £7.3 million, deficit of £7.8 million, surplus of £7.7 million estimating £3.8 million. It is as much of a straight line as any economist could possibly hope to draw on the basis of imprecise science. Because of course, at the beginning of the financial year we do not know the expenditure and we do not know all the revenue. There are many demand-led items of expenditure, health service medicines for example, and many issues of revenue that I do not know how much tax is going to come in in a particular year. Notwithstanding that we are juggling with invariables, we have managed to produce an almost straight line, descending line, of falling surpluses precisely as we have said year after year we would be doing, and immediately and directly in contrast to the hon Member's completely unsustainable accusation of the opposite. It is they who have a gap between reality and what they say and not us; It is they who quote figures at random, it is they who abuse statistics for their own political expediency and not the Government; It is they who must not and cannot be believed when they bandy about statistics and other peoples' quotations in this House, not the Government.

He then went on, he obviously liked this point because he went on for a page and a half about it. The House was told, and I quote from him, 'Government budget surplus policies is calculated to keep the powder dry and to operate the sort of surpluses, having just mentioned the estimate of £16 million plus, that we judge will be necessary if this community is to afford investment in public service infrastructure it faces during the next four years.' He was quoting me in the 2000 Budget debate, and he quotes that as if to suggest that of course this did not happen. That is exactly what has happened. We have kept our surpluses dry during the four years 2000 to 2004 precisely for the purposes that we said that we would keep it dry for, in order to do the investment in the three things that I say and which he alluded to there. Well, continuing to quote him, 'well the next four years are now over'. Indeed they are. 'The powder is soaking wet and no huge infrastructure developments such as the Waste Water Plant has taken place, so much for continuous Government policy.' Oh I see, so his point then must

have been this. They said in 2004 that they would keep their surpluses dry in order to invest in public services and infrastructure properly, the four years have passed, that is exactly what they have done because the surpluses have been spent, but that cannot be what they intended because they have not yet started the Urban Waste Water treatment plant. That is the point that the hon Member was trying to make. That is the extent to which he can find fault in the Government's golden economic rules about what budget surpluses would be invested in. It is simply not credible.

What we have delivered is exactly what we said we would deliver financially in terms of the share out of the surpluses over the period that we said we would deliver it, almost with uncanny financial precision. Another example of dialectic shock practice and I quote him, 'having argued last year that it was a deliberate policy to get rid of surpluses, he then went on to demonstrate that the public sector had not grown over the years and that this was not the cause of the deficits. He went out of his way to demonstrate this, namely, that the public sector was not too big in relation to the size of the economy.' Well, those are two completely different points. I have never said that the public sector was not growing, I have said the opposite, I have said that a share of the surpluses would be invested in growing the public sector. The question whether the public sector is growing or not, is a wholly different point to whether it is too big in relation to the size of the economy. The public sector, which is exactly what has happened, can grow as it has done and not be too big in relation to the size of the economy, but he of course, appears not to care about that obvious distinction and mixes them both up in the same sentence as if they were simply interchangeable terminology. He goes on, 'nevertheless the figures he chose to defend his thesis'. This was the thesis that it was not too big by reference to the size of the economy, something which he would not dispute but as I had felt the need to explain it to the Chamber of Commerce, who confidently and I think only the day before repeated it, he nevertheless chose to take me to task 'because nevertheless, the figures he chose', that is me, 'to defend his thesis were all wrong, and wherever in

Gibraltar those quarters may be, they are certainly not going to be convinced by the figures he gave them.' He said that the Government's share of GDP has risen 21 per cent to 31 per cent between 1997 and 1998 and 2001/2002 and this compared favourably with the UK where it was 42 per cent.

In answer to Question No. 1968 of 2004, he corrected these figures, showing the way this ratio is calculated in the UK and applying the same method to Gibraltar. This shows the UK figure at 38 per cent, having been as low as 35.6 per cent previously. In Question No. 1968 of 2004, I did not correct the figures, what I gave him was an alternative method of calculation for the purposes of comparison with the UK method which used a slightly different measure of Government expenditure. That is what I did and I set out to him 'if the hon Member is interested in this basis, here is a table'. I set him out a table and I said in answer to the question, 'on this alternative basis of comparison, the Gibraltar figures each vary up or down by 1 per cent in one year'. That is not a correction. If every time I give the hon Member further information he is going to describe it as a correction of my previous statements, then I shall have to think carefully about giving it to him. We gave him the information on a different basis, which by the way, albeit with the different figures that the different basis of calculation would obviously produce, continue to demonstrate the same point that I was making in my budget speech and in my statements, namely, that in comparison to the UK, the public sector in Gibraltar was not too big compared to the size of Gibraltar. That as a percentage of the gross domestic product, which is how the size of the public service is measured by people who understand these things, the public sector in Gibraltar was smaller than it was in the UK. Even the figures on the alternative basis that I gave in Question No. 1968 of 2004, continued to demonstrate that clearly. So why the hon Member thinks that the figures he chose to defend his thesis were all wrong, and that those that I was trying to convince that the public sector in Gibraltar was not too big in relation to the size of the economy, because of the figures I had given him, it beats me because even the alternative basis figures, which he

describes as corrected figures which they are not, even the second basis of figures demonstrates the very proposition that I was trying to establish. So yet another example of the Leader of the Opposition's dialectic licence when it comes to just tarring with a brush in the hope that listeners will come to view him as an economic guru and me as an economic illiterate. *[Interruption]* Well, yes, hear hear does not mean that it is true, it means that that is what they are trying and that is what hear hear means. That is what I have been accusing him of and I am very glad that he admits it.

However, the Leader of the Opposition is correct when he says that in my 2003 speech there was, and I do not know where he got the figures from and I have myself from my working papers not been able to trace them, but he is right. The figure for the number of jobs that had risen by, the number of new jobs in the economy from 1996 to 2003 were actually more than I had said. I had claimed credit for creating only 2,125 jobs and I had actually presided over the economy that had created 2,439 jobs and it is most uncharacteristic of me to deprive myself credit for nearly 300 new jobs in the economy. So I hope I make that little humorous aside in an attempt to persuade the hon Member that it is bound to have been an oversight. It is also true therefore, that that represented 18.8 per cent and not 24 per cent, in fact, that also was a miscalculation and the hon Member is correct in having pointed that out. The hon Member has also made a fair amount of use in his speech of material that I have drawn from an area of public administration record keeping that I have been working on myself for some months and I am determined should be in place, that is, the public sector pay roll widely defined. Different Government departments generate this information on a different basis, some include the companies, others do not include the companies, for some purpose they are excluded. What I was actually going to do and will do, and work is already being done on it, I believe that this is a very interesting statistic, in other words, how many people, not just Civil Servants, how many people are directly paid for in terms of their salaries by the money that we vote in this House, obviously not including contractors. I suppose we could take it all the way and say well,

if we employ somebody to do the gardening, the people that they employ, their salaries are being paid by the contract fee, excluding that. In other words, Government departments, statutory agencies and authorities for which the Government are responsible, so therefore not GBC, and wholly-owned Government companies, that is the information which I have people working at putting authoritatively together, and what I will do is that I will then lay the statement in this House periodically, so that in future when we are discussing the growth in this or the growth in that, or how many jobs have risen or how many jobs have fallen in the public sector, which of course historically meant the Civil Service but now no longer does, everybody in the House will have the same reference point to be guided by and I hope to be in a position to table that in the not too distant future, it is something to which I myself attach some urgency. I hope to be in a position to table that in the not too distant future, it is something to which I myself attach some urgency.

The Leader of the Opposition then went on to address the House on another example of what he claimed represented an example of either my not knowing what I was talking about, or seeking to mislead an ignorant audience intentionally. This is the reference that he made to the Federation of Small Businesses dinner. In synthesis his point was, he went to the Federation of Small Businesses to tell them that the problem with the budget deficit was budgetary indiscipline by Heads of Department, actually the deficits, and they were in Consolidated Fund expenditure like legal aid which is outside the control of this House anyway, and therefore when he went to the Federation of Small Businesses to tell them that the budget deficit was due to budgetary indiscipline, he was either not knowing what he was talking about or seeking to deceive his audience, because they were understandably ignorant of the legal distinction between Consolidated Fund expenditure and Consolidated Fund charges, and this demonstrates everything I spent my speech saying about the Chief Minister. Well, in my speech to the Federation of Small Businesses, I said nothing of the sort. It must be clear to the hon Member, I will now read out that passage of my speech in the Federation of Small

Businesses to see who believes it sustains anything of what the Leader of the Opposition said. It is clear that what I was saying to the Federation of Small Businesses is, when the Opposition say that the Government are short of money every time that expenditure of some sort or other is not incurred, they are wrong. I will quote from my speech, this is the entirety of the passages that relate to this matter. I was explaining to them about public finances and how the Government were not short of money, and I quote myself now: "it has become fashionable for the Opposition to say that Government are short of money. If Government decide not to throw away a motorbike just because it suffers a breakdown and needs a repair, and instead choose to repair it rather than buy a new one, this is presented as evidence of shortage of money". I now stop the quote for a moment. This is not an example that I took from the clouds. This is not an example that I invented. It was an accusation made by his colleague, the Hon Mr Randall, in a public statement that I do not know what Government department was short of transport, and I do not know what public service was delayed and how many people were inconvenienced, because the Department had a broken down motorbike and because the Government were short of money, they had chosen to repair it instead of replace it. This is what he said and that is what I was referring to. I continue to quote myself: "If Government exercise normal and prudent budget discipline by requiring departments to stick to the spending authorised by the House of Assembly, which by the way is a legal requirement, this too is presented as shortage of money." Or do the hon Members not remember all their public statements when we had the alleged cut in respite cover in the Social Services, and then telling the people of Gibraltar that even though the expenditure was much more than authorised, that they had exceeded the approved budget, the Government were reducing respite cover because they were short of money. I continue to quote myself: "If Government departments overspend and Government require them to bring under control just part of this over expenditure, this is presented as spending cuts and are said to be the result of shortages of money." This was not me standing up to give a complete disjointed, dysfunctional as if I had woken up one morning, this

was in response to what was then the initiation of a sustained political campaign by the Opposition Members to get the people of Gibraltar to believe that the Government were short of money. That is what I was referring to. No reference there to Consolidated Fund charges, or does the hon Member say that because there is a reference, which by the way is a legal requirement, means that they were not accusing the Government of stinginess due to shortage of money in things that were a legal requirement in terms of votes on the Consolidated Fund? Or do the hon Members think that when the Government are making sure that their accounts stack up at the end of the year, they only look at Consolidated Fund charges and not at Consolidated Fund Departmental expenditure, and not at the agencies where most of the public expenditure of the demand-led variety takes place? Most of the items which are capable of throwing out of sync the Government's financial calculations happen in the Health Authority, because there is no way of knowing how many people get ill, there is no way of knowing how many people are going to be sent as Sponsored Patients abroad, there is no way of knowing how many prescriptions doctors are going to write out for medicines. Therefore, their estimating there is certainly not a science. In the Social Services Agency, where again it is less difficult but also, to a certain extent, demand-led. The Government, when we say to our people "you must stick to the spending limits that you have been set", are not just talking to the Chief Fire Officer and to the Superintendent of Prisons and to the other Controlling Officers of those Government Departments which are fully within the Consolidated Fund, I am also talking to the spending officers in the Social Services Agency, the Gibraltar Development Corporation and all these other agencies, who spend money but ultimately can only be financed from the Consolidated Fund through the mechanism of subventions to those bodies. For the hon Member to stand up in this House on the basis of what I said, in the context in which I said it, namely, the political statements that they themselves were making at the time, for him to say that when I said what I have just read out to the Federation of Small Businesses, I was misleading them into thinking that there was a need for

budgetary discipline because they do not understand the difference between Legal Aid, which is a Consolidated Fund charge for which there is no legal requirement for them to stay within a spending limit, because the law says that it will be whatever it is. It is inexplicable that the hon Member should stand up in this House and say that his twisted analysis and interpretation of all those things entitles him or justifies him saying and characterising it in this way. Here again we have a clear case of attempted deception of his captive audience at the Gibraltar Federation of Small Businesses dinner, or an appalling level of ignorance. There is no ignorance, appalling levels or otherwise, there is no deception and there is no captive audience, because the captive audience there were Gibraltar's business leaders who fully understand the need for budgetary discipline. Or does he not think that businessmen do not understand that if one does not control the cost base in relation to revenue stream, one gets into trouble. What I said to the guests in the Federation of Small Businesses was in no way linked to budget surpluses or budget deficits. It was a response to the hon Member's repeated political accusations that every time somebody went to their office and said "have you heard that the Government is repairing the motorcycle and not paying?" "Have you heard that yesterday I tried to put my child into respite care and I was turned away because they said the Government have got no money?" They wish to rush out with the statement saying "ah, the Government are short of money because they cannot even look after our disabled children in respite care", ignoring of course, typical of them, the fact that respite care had grown hugely from the days when they were in office, when apparently respite care was not necessary.

The Leader of the Opposition then went on to persuade the House, or try to persuade the House, that the budget deficit or rather the excess expenditure in the departments that we vote on as opposed to the departments that we do not through the Consolidated Fund charges, was only £49,000. Indeed, that is true but it is only true because of the budget discipline that the Government have instilled which they then criticised. He has got to remember, which I am sure he does not forget but he

forgets to mention, that £49,000, actually a bit more but never mind it is not a huge amount, is a net figure after some departments have spent more than they are allowed and others have had to save in order to make up for it. So not even that point is justified. Of course, if the result of one department, having spent much more than it was allowed to through budgetary indiscipline is that I then have to say to another department, 'you who have not yet spent all your money have got to deliver savings to make up that other department's over expenditure', the net result is a small increase, but leading to that small increase there has been a considerable amount of potential excess of expenditure by some departments and consequent need for savings by others. Does the hon Member with his experience of public finances, and with his experiences with the economic expertise that he claims to possess, does he not think that would have been a reasonable point to have pointed out to the House rather than try to persuade the House that the fact that there was only an excess expenditure of £49,000 meant that there was no need for budgetary discipline? Therefore anything the Chief Minister says about budgetary discipline must mean that he does not know what he is talking about or that he does not care who he misleads. I will tell the House who does not care who he misleads and that is the Leader of the Opposition, he does not care who he misleads with his statements.

The Leader of the Opposition then went on to say that last year I had said 'hooray, as I recall, at the prospect of Gibraltar work force being upwardly mobile in the sense of increasing the quality of their employment. The hon Member said this year, 'well I suppose this year he will say hooray three times, because 45 Gibraltar ladies have lost their jobs as shop workers'. Let us analyse that statement by this man that accuses me of making remarks at random, misquoting statistics and of not caring who I mislead. Who has told the hon Member that 45 Gibraltar ladies have lost their jobs as shop workers? Certainly, I can see from the statistics, that there are 45 fewer Gibraltar ladies working in the wholesale and retail trade, but what makes him think that that is because they lost their jobs?

Has he not considered the possibility that they may have retired? That they might have moved on to better jobs? In some of these sectors where I said hooray, hooray, better quality employment. Or that they have given up work? Why does this alleged great economic expert, who never seeks to mislead anybody, assume that a reduction of 45 Gibraltar women working in the wholesale and retail trade have (a) lost their jobs; and (b) what makes him think that they were shop workers in the first place? The category that has reduced by 45 jobs for Gibraltar ladies is wholesale and retail, and that in wholesale and retail are included office workers working in wholesale trade, drivers, anyone who works either in wholesale or in retail is included in that category. So, the hon Member notwithstanding that he says, 'well I suppose he will say hooray three times because 45 Gibraltar ladies have lost their jobs as shop workers', the reality is that he cannot say that anybody lost their job or that they lost their job as shop workers. Now who was the hon Member trying to mislead, or was it that he did not care about the accuracy of his remark? He then went on to say his explanation was that this was because they were leaving shop assistant jobs to take up betting shop jobs. I do not remember saying that but still. The survey shows 111 extra female (I am still quoting him) the survey shows 111 extra female workers this year in the services sector composed mainly of betting shops, of which only nine were Gibraltarians. So much for the explanation. Another rubbishing of my argument, and another rubbishing of my argument with false statistics by him. I think it is irrelevant frankly, except to prove that he does what he accuses me of doing and not me. It is not true that only nine were Gibraltarians. Looking at the survey that he has drawn these figures from, the number of Gibraltarian female workers in the services sector, other services sector, was not only nine. It was 259 compared to 242, which I think is 17. Who was he trying to mislead or does he not care about the inaccuracy of the information that he gives to this House and to the people of Gibraltar?

He then went on to talk about the MoD. Whilst on the subject of the Ministry of Defence there are two points I wish to make.

“The Chief Minister promised some time ago legislation to deter an incoming contractor wanting to take over MoD jobs. I have to say to him that he had better get his skates on and bring the legislation, otherwise by the time it is in place we might find the contract has been given out and that it will be too late.” In his May Day speech he actually went further and said: “because the Chief Minister promised legislation to prevent the MoD privatisation”. Who is the hon Member trying to deceive or does he not care about the accuracy of his remarks? When have I ever promised legislation to prevent the privatisation? In fact, I have said that legislation to prevent the privatisation is not possible, but what was possible and what we would do, is bring legislation to make sure that financial savings could not be carried forward to the contractor, and therefore indirectly to the MoD, at the expense of social conditions in Gibraltar. That is what I have said. It does not stop the hon Member repeatedly mis-representing me for the purposes of making MoD workers think that I have not done all that I could to prevent their privatisation and therefore tried to recruit them to him instead of to me politically. Another example of his systematic distortion of what I say for the purposes of building his cathedral of unpolitical untruths.

The Leader of the Opposition then said, as an aside I think because it is not in his formal written text, that when expenditure is exceptional, we treat it as exceptional but we do not do the same about revenue. It is true that there are no instances of exceptional revenue declared, but he has to understand what the word ‘exceptional’ means. Exceptional means that the item is exceptional not that the quantum is exceptional. If tomorrow somebody gave to the Government money in relation to a type of expenditure that was not going to repeat itself, then that would be exceptional. In other words, that source, sale of shares, is not going to repeat itself and that is not the case in expenditure. For example, the Tercentenary expenditure is exceptional. It is not the sort of expenditure that repeats itself but on taxation revenue, the fact that the revenue one year is higher than the other makes the quantum exceptional but not the actual item. That is the distinction that has been drawn.

The hon Member, of course, is free to take the view that it is not the correct distinction. We think it is the correct distinction because it is exceptional expenditure in terms of the nature not the quantum of the expenditure. There are lots of items of revenue and expenditure where the quantum may vary from one year to the other, but the nature of the expenditure is recurring and because it is recurring, even recurring with varying quantity, then it is still recurring expenditure and cannot be treated as exceptional. For example, the price of oil rises hugely and whereas last year the Electricity Authority spent x million on fuel the next year it has to spend x plus one and a quarter million on fuel. Well compared to historical that is exceptional in quantum but not exceptional in nature. He then went on to say that he thought that the tax revenue estimates may be conservative and I think indeed they may be. He thought that they were too low compared to the growth in tax revenue that has been seen in previous years and that may turn out to be the case. He asked specifically why we were estimating such a small increase in the revenue on income tax as opposed to company tax. Well, I think there are two things here. First of all I think there is an element of conservatism too but the department is determined this year to make an effort to catch up with arrears of assessments in personal taxation, and this could throw up the need for an accumulation of several years’ worth of refunds if they turn out to be due on the assessments, and that in turn would reduce this year’s yield not by reference to paying out more numbers. The department wants to catch up with assessments and get away from the situation where assessments are always a few years in arrears, so that historically, people who have overpaid tax and are due a refund actually wait several years to receive it. We do not think that is fair and the department is under instructions to try and bring that situation up to date and that may cost some revenue.

The hon Member also asked me to give him a summary of the recomposed public debt and the interest that that would require, I am happy to give it to him. There is £25 million worth of special 6 per cent monthly income debentures issued to Community Care Trust. There is £15 million worth of Special

Monthly Income Debentures at base rate issued to Community Care Trust, and there is £10 million worth of Special Monthly Income Debentures at 50 base points below base rate, issued to the Gibraltar Savings Bank. He also asked me, given the reduced cost of financing the coupon on that debt, he was surprised that the provision for public debt servicing was not lower than estimated. The reason for that is that under the terms of the loan stock, which is now matured, interest was paid six monthly in November and May. Well May falls into this financial year so this financial year we have actually had to pay six months worth of interest, five of which or four of which fell into the previous financial year. So this estimate does not reflect 12 months worth of saving, it only reflects six months worth of saving. As I said in my budget speech, the annualised saving would amount to about £3 million with public debt at £93 million.

The hon Member said, "what is clear to us is that the certainty of creating a multiplicity of agencies has....."

HON J J BOSSANO:

May I ask, in terms of the public debt the £50 million here that he has given me does not include the amount that was issued to holders of the Savings Bank debentures that matured on 1st May?

HON CHIEF MINISTER:

They may be the same people because these are Government Debentures so it may be, I am sure it is the case, that holders of maturing Savings Bank Debentures re-invested in these new, let me explain. That £50 million is how the £50 million loan stock has been refinanced and none of that was issued to members of the public, it was to Community Care Trust and to the Gibraltar Savings Bank. So there are now holders of the Gibraltar Savings Bank Debentures which matured on 1st May, £29.4 million matured of that, 28.57 per cent Monthly Income

Pensioner Bonds of 2005 and £900,000 worth of 5 per cent Debentures 2005 matured. There has been a public offer only to the holders of maturing Gibraltar Savings Bank 7 per cent Monthly Pensioner Bonds, a special issue of Monthly Income Debentures interest at 6 per cent per annum or the base rate, and is redeemable at par on 1st May 2010. So that is a Government of Gibraltar Debenture offer as an investment home for holders of expiring Savings Bank Bonds, and there are Monthly Income Debentures also made available to pensions at base rate on the same terms and conditions as the existing Gibraltar Savings Bank Debenture, that is the £900,000 worth of 5 per cent Debenture 2005. Then a Monthly Income Debenture for all other investors at 50 base points below base rate for other people wanting to invest. In total £32.2 million worth of these substitute Government Debentures, substitute for Savings Bank Debentures, have been issued since the corresponding Savings Bank Debentures expired.

HON J J BOSSANO:

So then the amount is no longer £43 million?

HON CHIEF MINISTER:

Correct. The amount due to banks is due on revolving loans, which means it can be increased and decreased as a matter of Treasury management, and it is correct. Well, as at 17th May the total amount due to banks was actually £10 million, totalling £93 million.

It is true that the authorities cost more initially than the Government departments that they replace, because the staff is invariably issued with a premium to transfer to the agencies or to the authorities, a premium on salaries, as was the case when people went to the utility companies but they do not have higher operating costs beyond that. It is not that it costs more to operate an agency than a Government department, except in

respect of the wage premium and the benefits obtained by future generations of taxpayers is considerable, because new employees in these organisations are then on contributory pension schemes, with the Government having to contribute annually a percentage of their share to their future pensions, as opposed to, and that comes out of annual recurrent expenditure that is costing, as I said in my speech, nearly £1 million a year which I could be saving by just employing people on the present pensionable terms and leaving their pension wage to the taxpayers when the present recruited employees get to retirement age. Part of the reason, not the whole reason, why the Government do these authorities is as a means of making different pension provisions which the Government have to fund, year on year going forward, and not just leave for future generations of taxpayer an unfunded ever increasing public sector bill. One can only do that if one takes in new recruits into an organisation that is not the Civil Service. So it is true that there is a higher operating cost now, not just in higher salaries but also because the Government annually have to put their hands in their pockets, get a percentage of the salary and put it in a pension fund, which we do not do with the Civil Servants, and that is also a second cost of increases to the Government which we could be spending if we were not minded to try and make some provision that might relieve the burden on future Government and future generations of taxpayers.

The Hon Mr Bruzon chose to be much gentler in the nature of his observations. The hon Member, I think, makes a good political point that will certainly go down very well amongst many people, when he reminds the Government that we have not yet delivered on our commitment on affordable homes for purchase, and that we have not yet built more housing rental stock. But of course the people who hear him say that, both of which statements are true, will also no doubt be remembering that of course the people who are now chastising us, because that is how he ended his address, 'well I now chastise the Government'. Well the party that is now chastising us for not building rental homes failed to build almost any rental homes in the eight years that it was in office. I say almost because I think

there were a few on the roof of Laguna Estate, when they added a floor instead of repairing the roof. So, I do not know whether the hon Member thinks that housing waiting lists were born on 16th May 1996 when the GSD came into office. I do not know if the hon Member thinks that the social consequences of not having more rental homes is now different to what the social consequence might have been when they were in office. I think they are both the same. The difference between they who now chastise us and chose not to build any rental homes, the difference between them and us, even though we have not yet fully delivered on our own commitment, for which we must answer to the electorate certainly, is that we at least have done. We may not have built as many as we would have wanted but we have built homes. There is Bishop Canilla House, there is Edinburgh House, which although we did not build we did invest public money and put it out to rental. *[Interruption]* Well, yes, the hon Member says 'ha ha' but when they had the opportunity to do the same with Gib V which they built, they could have put it out to rental as well. Instead they chose home ownership, so called Option C, for people who demonstrably could not afford it and we have been busy rescuing from Option C ever since. The reality of it is, and it does not mean that I do not accept his criticism that we have not yet done it, but the reality of it is that we have built and delivered, put onto the housing stock many, many more houses than they had because they had no commitment to housing rental stock. On the contrary, they were wanting to push everybody into home ownership, even those who could not afford it and who have subsequently paid a huge social price for the pressure under which they were placed by the Opposition Members. So, I repeat, it does not detract from the fact that we have only built 86 or 90 houses in Bishop Canilla, it does not detract from the fact that we have only put Edinburgh House on the rental stock instead of opting to sell them, as we could have done and which they wanted to do. Well we could have done that, we did not and we have committed to do more and we will but when the hon Member chastises me from a seat in that political party, he has got to understand that he is not well placed to chastise me because whatever he may think about the inadequacy of our performance

on this issue, it is much better than his on rental stock. I am not quite sure what the purpose of his allusion was but at one point he started talking about the Leaning Tower of Pisa. I do not know whether that was a reference to the fact that he thinks we were wobbling politically and leaning over. Can I just remind him that even if it leant, the Leaning Tower of Pisa has stood for many hundreds of years and that I am sure that therefore that was an unintended comparison with the Leaning Tower of Pisa. Then he says, 'people come to us in desperation, if the Chief Minister cared he would solve peoples housing problems'. But does he think that began on 16th May 1996? Or does he think that started the day he joined this House? People used to come to us when we were in Opposition in desperation about them, on health and on housing and the dreadful Housing Minister and the dreadful Housing Committee has not given me a house and look at my terrible conditions. That has always been the case. The suggestion that people come to him in desperation now and that that means something new is not sustainable. People have always gone in desperation to the Opposition parties on a whole range of issues in the hope of getting political pressure for their individual problem to be solved. I understand it, it is one of the useful roles that Oppositions play but the hon Member should not over gild the lily as to what interpretation is to be placed on the mere fact that it happens. It has always happened, it happened to us, it happened to them and it will continue to happen with us or with anybody else that finds themselves in Government at any time in the future. Well, what can I say? I will leave it at this, I do not think the hon Member is justified in comparing the problems in Harbour Views where all 22 blocks had to be fixed at a net cost of more than £30 million to the normal snagging water penetration problems in Bishop Canilla House, because what the hon Member said was, 'like Harbour Views, Bishop Canilla also suffered from water penetration'. These things happen. These things happen, is applicable to what happened at Bishop Canilla. These things happen is not applicable to what happened at Harbour Views.

HON C A BRUZON:

Just one second. What I was trying to say, it may not have come out the way I intended it but this is what I was trying to say and this is what I have written here. "He also conveniently forgot to mention that Bishop Canilla, constructed during his first term in office, also suffered problems of water penetration. Was this because they rushed into it or moved too fast, or simply because regrettably these things happen but of course he should not be blamed?"

HON CHIEF MINISTER:

Indeed I have done complete justice in the summarisation of what he said. In other words, the suggestion being that the two instances were comparable and the essence of my point is that they are not comparable. Nor was, by the way, Harbour Views just a matter of water penetration as he well knows.

He then said something spontaneously from the heart with which actually I agree. That is a view that I have always held that the Committee system of housing administration by itself is insufficiently flexible to deliver rapid relief to genuinely deserving cases. He expressed it in the following words, 'if the system of committees is not working and people are suffering, someone in the department needs to make a decision quickly'. He may recall that I said from a sedentary position that I agreed, and I do, it has always been one of my bug bears, I understand that systems have got to exist so that people can have confidence in its fairness and its transparency but I also believe that the system has got to have inbuilt into it a degree of fast tracking or flexibility to ensure that the system does not do injustice to people in genuine, urgent need of being addressed and I would like to see housing administration policy develop precisely along the lines that the hon Member I think spontaneously, I do not think that was in his speech, spontaneously said. If they cared for the elderly we would not delay in the installation of lifts. Well the policy to install lifts in the housing estates for the benefit of

elderly was ours, it never happened in the eight years that the GSLP were in Government. Does this mean that by his standards the GSLP did not care for the elderly because they did not install any lifts? Never mind delay they never installed lifts, it was not their policy. So therefore, why did the hon Members judge us when it comes to our failures, by a much higher standard than they practised themselves? If delay as he calls it, I do not think it is delay, lifts cannot all be built at the same time. There is a lift installation programme and it is in process but if the hon Member views that programme as not caring for the elderly, well I suppose if I wanted to adopt the same standards I should say, 'well by that standard you cared for the elderly even less'. See, it is just the application of double standards all the time. People will decide if to chastise the GSD on their abysmal performance on housing. Well, I think the reasonable and more politically fair way to make that point is to say 'their record on building affordable housing', because actually many of our achievements in housing in other areas have actually been very good. Ask the people who live in housing estates that have not had refurbishment or repairs or redecoration carried out for decades, who are now living in much more attractive environments, ask them whether the Government's policy of investing money in the refurbishment of the housing stock is an abysmal failure in housing policy. Ask the people in Alameda Estate, that now have lifts and are no longer prisoners in their own homes, the elderly and the handicapped, whether the Government's policy on housing now that they have lifts is an abysmal failure. Ask the tenants of Varyl Begg Estate that are being re-roofed and lifts are being installed in all blocks whether the Government's housing policy has been an abysmal failure. Now ask the people who have become impatient at waiting for the Government to deliver them affordable homes whether they think that the Government's housing policy has in that respect been an abysmal failure and perhaps one may get a very different answer. So I think it is important to bear in mind that performance on housing has dimensions wider than just houses for purchase and houses for sale, of which of course there have been many, it is just not within the price reach of a large section of our community.

The Hon Steven Linares who felt qualified to say that in respect of education the Government had failed on many issues due to mismanagement that has left finances in a mess, well even as a telegraphic abbreviation that is perhaps the most inept economic analysis that I have heard from Opposition Members. What aspect of the education policy do the Opposition think that is the result of the Government's mismanagement? Is it perhaps the fact that we have increased the level of student grants much more than they did? Is it perhaps the fact that our economic mismanagement has enabled us to abolish parental contributions? Perhaps those were the two elements of economic mismanagement. Or perhaps the economic mismanagement that has resulted in a financial mess that has had repercussions on education, perhaps he meant the fact that we have employed 30 or so more teachers. Perhaps that is the mess in the educational system that he means, or perhaps the economic mismanagement resulting in the financial mess that he was alluding to in his incisive economic analysis, perhaps it was the fact that the Government had increased from two to six the number of nurseries in the Government school sector, and from 135 to 315 the number of Government nursery places. Perhaps that is the economic mess and the economic mismanagement to which the Opposition Spokesman for Education was alluding to when he made his incisive economic analysis and the consequences of that for the Departmental portfolio that he shadows. The hon Member should limit himself really to debating with the Minister for Education things about the national curriculum and all that sort of thing, but if he is going to stray into economic policy, he should at least start by recognising the huge increase that there has been in the education budget. Does it not strike him as odd or is it that he has just written his speech and he was damned if he was going to change anything that was already written, because he wrote it last week and nothing that I have said in my budget address is reflected in it? Did he not hear me say that one of the areas in which we had hugely increased public expenditure was education? Well it is there in the budget book, it is there in the certified accounts by the Principal Auditor, I am not expressing

an opinion, it is there. So when he says that there is failure on many issues due to mismanagement that has left the finances in a mess, does he mean the record level of increases and investment in the education sector? In nurseries, in building more classrooms, in building more school halls, in recruiting more teachers, is this what he means? Is this the credibility, the reliability or is he trying to mislead somebody? Or is it, perhaps in his case, that he simply does not know what he is talking about?

Another example of mismanagement according to the Hon Steven Linares is the question of permanent supply, as if we had invented it. Anybody would think that the first long-term permanent supply worker was recruited into the Government on 16th May 1996. Well actually what happened on 16th May 1996 is that a new Government was elected that set about converting these people into permanent and pensionable posts. That must be the mismanagement to which he is referring. So if it is mismanagement to make long-standing people permanent and pensionable when we arrived in office, what does it say about the management of the people who put them there in the first place?

What does he mean when he says that ‘the Chief Minister could not compare the Theatre Royal with Harbour Views because there are 2,000 people living in Harbour Views’? Many of them, by the way, might just as well been living in the hole that he calls the Theatre Royal, for the amount of water that used to pour into their houses. I think they might have been drier in a tent on the site of the Theatre Royal than in their homes on the top floor of Harbour Views. Does he not understand the point that I was making or does the hon Member think that he needs to point out to me the fact that there are thousands of people living in Harbour Views and nobody living in the Theatre Royal? Is that the point that he thought I was making? When he heard me mention the Theatre Royal and Harbour Views in the same sentence, did the hon Member think that I was comparing one with the other in terms of one being a residential site? Is this what the hon Member thought that I was saying? He cannot

have, surely not. So what is the point of saying ‘the hon Member forgets that there are 2,000’? I know that there are 2,500 families living there, I had to grapple with their justifiable exasperation for seven years whilst we solved the problem that the Opposition Members had created for them. He does not have to tell me how many people there are there, I know. The hon Member surely must understand that the point that was being made was that when the hon Members bandy about, and I shall refer to this again later when I respond to the Hon Mr Picardo, that when I was referring to the £3 million and the Incinerator and Harbour Views, I was trying to put into size perspective the so-called waste of money that they think that the £3 million is wasted in a hole in the Theatre Royal. Presumably he grasped that. Whether the Theatre Royal is viable or not is a matter of opinion. There are many things in Gibraltar that are not viable if one makes the assessment purely economically. I suspect he has been contaminated by the leader of what he calls a different political party sitting two seats away from him, the Leader of the Opposition, who recently said, ‘does Gibraltar need a new sports hall next to the old one?’. Well of course, if one is the sort of person that only sees life and the quality of life through the perspective of pound signs, then I can well understand that one does not attach any intrinsic inherent value to a new theatre and one might well, as is the case with the Leader of the Opposition, take the view that it is financially unviable. But for the Opposition Spokesman for Culture and Heritage to articulate the same view is gob smacking. So are we to assume and understand that the Opposition’s policy on heritage and culture is that if it is not economically worthwhile it should not be done because it is not viable? Is that the hon Member’s policy? Because if one applied that to sports facilities and to all manner of other things that the taxpayer pays for, we would have very little more than places of learning, places of work and places of health service and everything else is economically not viable. Economic viability is not the test that the Government apply when they decide on all aspects of public expenditure. Of course it has got to be affordable but the Government do not say ‘will this make an operating profit?’. The

Government subsidise culture and the Government subsidise heritage in the form of the performing arts.

The hon Member concluded his address by pointing out that there were more juvenile delinquents in our courts and that this is the Chief Minister's economic policy or the result of it. Well, I do not understand the cause and effect logic of that just as I do not understand the cause and effect logic of almost anything that the hon Member said, but does he really think that if public opinion really thought that there was a problem in Gibraltar of juvenile delinquency, does one really think that they would entrust its solution to a political party that single-handedly presided over the destruction of our youth and of the darkest period of juvenile delinquencies in Gibraltar's history? Is that what the hon Member stated? The Hon Steven Linares thinks that if the people of Gibraltar come to the conclusion that there is a problem of juvenile delinquency in Gibraltar, the people qualified to fix it is the GSLP with its history pre-1996. See what I mean by the hon Members trying to air brush away their own political history. *[Interruption]* In fighting the new elections one has got to be sincere with the electorate and one is not sincere with the electorate by pretending. That is certainly an issue on which I am willing to take my chances against the Opposition Members. The Opposition are still led by the leader that used to say that there was nothing wrong in tobacco smuggling. They may not like hearing it but it is true. These are the people who blame us for what they think is a problem of juvenile delinquency in Gibraltar. Quite apart from everything that I have just said, the Government do not think as poorly of our youth as the Opposition Members appear to think. They obviously have come to view our youth as a problem, we do not see our youth as a problem, we see our youth as an asset.

What can I say about the contribution of the hon Lady, Miss Montegriffo? As I said when I arrived in the House, I would not have missed it for anything and I can assure her that I was sitting in the office with the radio on, avidly listening to her every word and her speech was as enjoyable to listen to as it is every year, but alas, photographically enjoyable as it is every year,

welcome back to the Chamber Madam. Photographically pleasurable as in past years because it was almost the exact speech. The hon Lady gets up in this House year after year and delivers the same speech. Of course it is longer and longer because I think what she does is that she gets last year's speech and adds a few pages to it. Of course if one does that after five or six years it gets inexorably and inevitably longer.

The hon Lady's contribution, enjoyable and I think politically effective as it is, I have always told her that I admire her political speeches for having a large degree of political acumen about them, but nevertheless we need to distinguish between political entertainment and political acumen on the one hand and the substantive content of the hon Lady's speech on the other. Frankly, in terms of the substantive content of it, the hon Lady is really living the life of a sort of a Walter Mitty. The hon Lady would have the people of Gibraltar believe, to quote her, 'that the health services are now 100 times worse than they were in 1996, that nothing has been achieved, that nothing has progressed, that nothing has been improved, that nothing is better and if that were not a tall enough order, the lady's powers of argumentative persuasion are not strong enough to help her achieve that task, whatever may be the work that is still left to be done. But to that not inconsiderable mountain she then adds another mountain and that is that of course, not only is there no improvement, not only has nothing been achieved, not only is everything 100 per cent worse but the staff is excellent, it is nobody's fault, it is not the management's fault, it is not the doctors' fault, it is not the nurses' fault, it is not the administrator's fault, it is not the cleaning ladies fault, it is not anybody's fault except the Minister for Health. The Government are even blamed for an increase in the number of medical negligence cases. Well I suppose Ministers will have to stand next to the surgeons whilst they are operating and say 'look do not leave that bit in, do not take that bit out because if you take that bit out this will become a case of medical negligence' and the Opposition Members will accuse us of presiding overpricing the health service.'

HON F R PICARDO:

Mr Speaker, a point of order. In none of the speeches that have been delivered by Opposition Members has anybody blamed the Government for an increase in the number of medical negligence cases. There has been a reference, in fact in my speech, to increases over which the Government have presided and we are saying there are more medical negligence cases. That is not to say that the Chief Minister is responsible for those because frankly, if we were to carry out surgical duties in the same way as he is purporting to dissect our statements, he would make as many mistakes as he is making now.

MR SPEAKER:

But there was a reference to a medical negligence case.

HON F R PICARDO:

But what the Chief Minister has said is that the Opposition has blamed the Government for the increase in the number of medical negligence cases. If it makes sense and if it helps us all move forward more quickly then there is no question that we believe that it is not the hon Gentleman who removes a kidney when a lung should have been removed. What I said was this, 'there are increases affecting Gibraltar which he is not so proud of and to which he does not like to refer. Let us go through them.' Number six of those increases that I referred to was the negligence claims against the Health Authority. That is all, there is no suggestion that the Chief Minister took out a kidney when a lung would have done.

MR SPEAKER:

My view is that it is perfectly possible for any Member of this House, or indeed anyone else, to interpret that in political terms

as an allegation made in respect of the Government's performance.

HON CHIEF MINISTER:

The Hon Mr Picardo cannot even honestly re-quote his own words. It is true that he said 'finally, the Chief Minister referred yesterday to increases he was proud of but there are increases affecting Gibraltar which he is not so proud of and which he does not like to refer to'. He says that that is not supposed to insinuate blame to the Government. He then lists, let us go through them, he lists one to ten and contrary to what he has just said, what he has just left out of the recital of what he said the other day was that he ended the list by saying, 'increases are what will snare this Government not what will save it'. He has the gall to stand up in this House today and pretend that he was not aiming political credence at the Government, shame on him. The hon Member should not abuse the rules about Standing Orders. The hon Member has got to understand that just as he made the whole essence of their addresses, he has just spent faithfully recorded by this morning's Gibraltar Chronicle for the benefit of its readers, the whole essence of his speech was to demonstrate that I was not an interlocutor of truth, to demonstrate that I was not reliable and that I made unreliable statements and he is the practitioner par excellence of that as he has just demonstrated again in the last five minutes in this House. The hon Member tries to wriggle out of the natural meaning and natural consequence and natural implications of his own words.

Moving back to the health debate now that the Hon Mr Picardo has calmed down again. The Hon Miss Montegriffo reminded us in terms of the health budget, 'ah, why are they bragging about having increased health expenditure from £20 million to £46 million? Do they not know that when we were in office the GSLP increased it by up to 150 per cent?'. Indeed, but what she forgot, in the words of some of the other Opposition speakers, what she must have forgotten to point out to the

people of Gibraltar and this House listening to her, is that whereas we have mostly funded our increases from Government funds they increased their health spending almost exclusively from year in year out increases in Social Insurance contributions and particularly the Group Practice Medical Scheme element of it. Yes, they increased health spending but they increased it by taking most money out of the pockets of the lowest paid workers in Gibraltar. We have funded it mostly from general taxation having increased Social Insurance contributions only twice in nine years. That is the difference. So when she speaks about comparing the two records and who is mis-managing the economy, and who is investing and who is spending too much and the budget surplus and the budget deficit. Of course if I had funded my increases in public services by adding every year 10 per cent to the Social Insurance contribution, I could come to this House every year with a huge budget surplus. Huge, embarrassingly huge. That is what they did. I think the hon Lady would acknowledge that it is not an entirely irrelevant observation for me to make when she is boasting about having matched our level of investment in public services. She should relax, I do not have the stamina to go through a point by point rebuttal of her statement. So I am only going to pick on two or three just to illustrate the general response and what we think of her completely and utterly distorted picture that she paints of our health service.

Mr Speaker, it is all generalisations proving the specific and it is all smears, for example, let me illustrate both those points. Generalisations to prove the specifics, here is a photograph of a seat that was on a wall and it fell, and it fell to the ground and then I heard all sorts of arguments about whether the seat or the wall had fallen, either or both. Anyway, the fact of the matter was that there was a seat on a partition, a patient had sat on it and the seat had fallen. The fact that one seat falls from one wall proves that the Opposition were right that the hospital is the wrong place because of course one does not convert an office building into a hospital. It goes without saying, in the hon Lady's logic, that if one builds a hospital on a green field site one does not have partitions. Or does the hon Lady think that all internal

partitions are brickwork? Does the hon Lady think that even in a new building, purpose-built, somebody might not have committed the considerable act of imprudence of screwing that chair, that could happen in this or any other building, but it does not matter. The fact of the matter is that one incident of one seat falling off one wall, despite all the seats and all the walls in the building, that serves to prove beyond a shadow of doubt in the hon Member's mind of the Government's stupidity in building the hospital at Europort. How could anybody possibly be so silly as to convert an office block into a hospital at the expense of £50 million odd, all of which has proved to have been stupid, including all the consultants and all the leading hospital architects that have worked on the building from the UK, and it is all demonstrated by the fact that this one seat fell off this wall. That is the general nature of the hon Lady's address from beginning to end. She has hopped around from one incident to the other, from one point to the other, from one 'I said you said' and then 'you did not give me information and then I asked you and then you gave me and then it was late and then it was early'. It is a mismatch or hotch potch all of which she then, having done this quote work of issues and incidents, she then says, 'so you see the Health Service is 100 per worse than they were in 1996 and the new hospital is a disaster. Let us throw the new hospital in the dustbin with the new buses that are too big, the East Side which is a wasted opportunity and with everything else'. They have a pathological inability to withhold criticism from anything the Government do. Everything that the Government do is wrong and they think that the people of Gibraltar think that that is credible. Well, good luck to them.

The smears, 'because the Chief Minister said this and the Minister said that' all because we are unreliable. The general smear campaign is not even limited to our political opponents any more. She picks up a couple of newspaper articles from some internet site and uses it to smear the professional credibility and stature of a publicly paid employee. I think it is a disgrace frankly that on the basis of a reference to him in two articles, which are not to the effect that she used it for anyway, she just throws it up in the air. Throws this characterisation of

this man, 'let us see if I can get people in Gibraltar to think through the broad brush mirror approach, that the man is an incompetent oaf that the Government should never have employed.' It is disgraceful and it is the first time that I have heard in this House any Member of this House lance that sort of political attack on a publicly paid official. She then went on to refer to the 1996 report and the 1997 report. Look, for somebody who has spent the last three years telling us what a waste of money it is to get reports because any idiot knows what the Health Service needs, so why these GSD idiots need experts to come and tell them what needs doing when it is perfectly obvious what needs fixing in the Health Authority, and she used to personally be the fixer when she was in Government. For somebody who thinks that about reports she seems remarkably interested in the content of them and she even seems remarkably interested in the content of the 1996 and 1997 report, even though of course she misquotes the references to it. The Government have said repeatedly in this House in that era, which is now quite a long time ago, that we have implemented those of the recommendations that we accepted and that that led to an increase in the number of nurses, I cannot remember if it was 40 or 50 or somewhere in between, and many other of those recommendations that were implemented.

She says, 'health services are not better, people tell us that they feel that the health services are 100 per cent worse, not 100 per cent better,' and the very next thing that she says is 'of course I say this from the heart because if we criticise for its own sake we would lack credibility'. Well she should listen to herself. Does she really think that those two statements are compatible? The statement that the health services are 100 per cent worse and that if they just criticise for its own sake they would lack credibility, because that is exactly what I think she suffers from. Lack of credibility precisely because she says things like that. She might say, 'look, all right, you have gone this far but there is still all that much more to do', and criticise us but to suggest that nothing has been achieved is precisely what she herself says, deserves a loss of credibility on their part. She says that we are

the persistent users of spin and propaganda. To persuade the people of Gibraltar that the hospital is a disaster within minutes of opening, in case of course God forbid the people of Gibraltar should give the Government any brownie points, let us rush to discredit the hospital. 'I know, somebody told me that they went to the hospital and a can of coke had got jammed in a door and that the wind was causing a....., the hospital is a disaster because a can of coke jammed some door and because the wind kept on pressing the automatic eye opener or whatever'. She says that we are the masters of spin and propaganda. Well, to convert a door that flashes opened and closed with the calamity of the new hospital, I do not think even the most expert spin and propaganda master is capable of achieving that trick, which of course more than amply explains why she failed. 'All commitments promised years and years ago have still not materialised'. Oh, I see, so the extra £26 million that is being spent on the Health Service is a figment of our imagination. It must also be a figment of the imagination, all these commitments none of which have materialised, so clearly it is a figment of my imagination that we have a new professional and dedicated ambulance service. It must also be a figment of my imagination, given that we have not delivered on any of our commitments and none of them have materialised, it must also be a figment of my imagination that we do not have a new expanded Primary Care Centre. It must also be a figment of my imagination that we do not have a new hospital. It must also be a figment of my imagination that we do not have many more nurses, many more doctors, many more therapists, many more professions allied to medicine, many more staff, many more health care workers, delivering health care in areas where there simply was no care provided before 1996. All these things must be a figment of my imagination for the hon Lady's remark to be other than misleading people or not caring whether what she says is true or not. I give them the same choice as they have given us. 'Impressive announcement but no delivery', so none of the things which I have just explained have been delivered, as far as the hon Member is concerned. Of course the hon Member judges whether we have delivered on any of our commitments not by the things which we have done but by the

fact that a coke can jams the new hospital door. Even the measures that we have taken have not worked, none of them. Well, this is how one might summarise the hon Lady's approach in her entire address. The Government have done nothing but if they have done something it has not worked, and if it has worked it has taken too long. That is in a nutshell the philosophy of her political discourse. It is simply not credible. People go to the new hospital, see the splendid facilities, see the splendid new equipment, see the splendid new everything and must be thinking 'what on earth was that woman talking about in the House of Assembly the other day?'. Of course, there are incidents, we do not pretend to be better than the Houston Medical Centre, but even in the Houston Medical Centre there are incidents where people take too long to be treated, or there is medical negligence or the treatment is not what it should be. The difference is that people use that to argue the need for improvements. Politicians in other countries do not use those incidents to try and demonstrate that there has been no progress and no achievement, and that is the complete distortion in her political discourse.

'Nothing Mr Britto says convinces us that things are getting better'; 'The people take all their announcements with a pinch of salt'; Announcement imminent, no delivery'. Slipping into the Spanish, which I suppose to her must be akin to slipping into the vernacular, 'van a paso de tortuga'. Well, it is not that the Hon Mr Britto and his Ministerial colleagues achieve nothing or do nothing, it is that they have this pathological inability to acknowledge anything. The buses are too big, the hospital is no good in the wrong place and does not have a kitchen because this super duper architect forgot to put the kitchen in. The Sports Centre, what is it for? We have got an old one next to it what on earth do the Government want a new sports centre for? The East Side has recently been criticised as a waste of an opportunity, never mind the huge financial and infrastructural benefit that Gibraltar will get. The Mid-Town project has been criticised because one tower is too tall, the other tower is too fat and people are not going to be able to see the sea past the silhouette of a tower. The electorate now understands the

nature of their political discourse and strategy. So nobody believes them any more when they pretend that the Government have achieved nothing. People might believe them a bit more if they said 'well the Government have achieved this, this, this and that but on this, this, that and the other they still have not delivered'. Or 'on this and this what they have achieved, that aspect of it 'no le salio muy bien''. [Laughter] For me Spanish is not the vernacular because I have no difficulty in speaking Spanish. The people of Gibraltar now no longer take those statements seriously, because when the Opposition Members say, 'the Government have not done this, the Government have not done that, the Government have not delivered on anything of what they have promised', people know that they criticise everything that the Government have done. Gibraltar is changing in front of the entire electorates' eyes, the place is becoming almost unrecognisable and the hon Members are still saying that the Government have not done anything and they talk about spin, propaganda and loss of political credibility.

Mr Speaker, one has to be devoid of all common sense and devoid of all objectivity, and devoid of all political sincerity to assert, as she has done, that the new hospital has brought no benefits at all and that the root and branch review of our clinical standards has brought no benefits at all. She prefers all of this by saying that if she criticised for its own sake the Opposition would lack credibility. Well I have got news for her, she does lack credibility and for the very reason that she has herself identified. Then, not wishing to be left behind in this collective strategy of distorting what Ministers have said for the purposes of denigrating them, 'Mr Britto has said in his speech that new improvements will take a couple of years but we were told they would come with the opening of the new hospital'. That is not what the Hon Mr Britto said, he said that there had been many improvements already and that others will come on line in a programmed manner following the introduction of the new hospital, that is what he said not what she attributes to him. Then the person who accuses us of being practitioners of spin and propaganda says 'a lot of people have told us that it is a case of gingivitis'. She then went on to explain that it was an

ailment of falling teeth. I see, a lot of people. So she would have us believe that people all go into her office saying that this new hospital is a case of gingivitis. I did not know what gingivitis was myself until I heard her but apparently, a lot of people, people queue up outside her office door to tell them that the new hospital is a case of gingivitis. Everyone says the same thing. Well what a huge coincidence. How very well informed medically the people in Gibraltar are with terminology and they all have the same thought and they all have the same descriptive instincts, all at the same time. Well, in her budget address she said, amongst the least credible of her many credible statements, she said that the previous year and last year, the previous year 24 and this last year another six areas where the Health Authority were in deficit. She said, 'the Government blames the patients for everything'. First of all we blame the patients and the point that she was making was that we blame everybody except ourselves. 'The patients were too fussy' according to her we had said. Then we blame everybody, we hit out at the staff, 'the good old days' she said, 'in good old days the situation was heaven compared to the hellish situation that developed soon after the GSD came into office', because this is the third of her extraordinary argumentative attempts. Part of her discourse is based on the proposition that before 16th May 1996 the Health Service was a heaven and that after 16th May it almost immediately became a hell. Not content with trying to air brush away their own political history they now want to air brush away peoples collective memories as well. We use the staff as scapegoats, because management, medical staff, nursing staff, they are very upset with the Government because we are suggesting that they might have a small something to blame or not. These people are all very upset. 'The management is great, the staff is great, the nursing staff is great and it is the fault of the politicians'. The politicians that have given new premises, the politicians that have done a good budget, the politicians that have given infinite amounts of new equipment and more staff but it is the Government to blame, according to the hon Lady, not the staff as if we had blamed exclusively the staff. Then she says, 'last year I gave a list of reasons why Government are responsible for the terrible state of

our Health Service'. Remember it is 100 per cent worse than before 1996, 'and not anything to do with the staff or the doctors, management or anything else. All only the Government's fault'. I said 'ah, I cannot remember this', this must be a hugely impressive list. I went back to Hansard and found her 2003 budget address and said now where are the lists of dreadful things with the Health Service that in the hon Lady's view explains everything that is wrong, everything that has made no progress, no delivery, that the Health Service is 100 per cent worse off but without any of it being anybody's fault except the political Government. So I go back to Hansard to find her list of 24 points and this is what they were. It might have been a list at Question Time, in order to come out with a public statement saying that they have asked 536 and a half questions, they convert one question into 12 by asking it in respect of January, February, March, April, May, June, instead of asking one question simply asking for the figures for each month of the year, but that multiplies one question into twelve. When I read this list I got exactly the same thought. Remember these are the lists of things of everything that is wrong with the Health Service that explains its present state of affairs, none of which being anybody's fault except the government's. (1) The Complaints Procedure – it is already proved to be a complete fiasco. (2) The Ombudsman's criticism of the procedure. (3) The GHA Complaints Board -also critical of the procedure. (4) Complaints from the public which have not been answered after they have been lodged for quite a number of years. (5) Statements made to this effect by the representatives of the Users Forum. I said 'hang on, is that one or five issues', is this not all the complaints procedure? So already five of the 24 hugely bad things that we are doing, five out of 24 nearly a fifth, are actually one issue not five and it is the complaints procedure. Well look, the complaints procedure has now been fixed. I do not think the complaints procedure explains why people are treated badly on wards, if they are, and I do not see the complaints procedure explains why some doctors behave to some patients as they appear to, but the hon Lady appears to think that is all done as part of the complaints procedure. She must think it is very important because it is the first five items and she repeats it five

times, items one to five. But now the complaints procedure has been fixed. It is statutory, it is independent, it is external, it is working very well. (6) Acute shortage of beds. (7) The mixing up of patients in male and female wards. (8) Cancellation of routines. I suppose that must mean routine operations due to the non-availability of beds. Well, six, seven and eight seem to me as three ways of saying exactly the same thing, shortage of beds. So she thinks, so far, we are at point eight out of 24 we are now a third of a way through the process and so far we have got two points – complaints procedure and shortage of beds. (9) The appalling treatment by the Government of our elderly patients. (10) Nursing staff publicly denouncing the conditions they have to work in. Well I do not suppose they are denouncing the conditions they have to work in any more but if they were denouncing the conditions they had to work in, namely, the old St Bernard's Hospital obviously they do not agree with her because the hon Lady spent two and a half hours telling us the problems were not because of the old St Bernard's Hospital and transferring it into a new hospital has not achieved anything. So this one, nursing staff publicly denouncing the conditions they are having to work in, is not one that the staff and her agree with. Review report audits proving fruitless. These are the reviews, reports and audit that she thinks are completely unnecessary and a complete waste of money. The long saga of the dialysis machine. Well, however long we take in the dialysis machine it cannot disguise the fact that their policy during all the years that she was Health Minister, was that it was fine for people to go to La Linea for dialysis. Not once did she even contemplate the possibility of having dialysis in Gibraltar, so why she thought that something, presumably as a caring Health Minister with all the expertise in health management that she attributes to herself, if she came to the conclusion that Gibraltar's hospital did not need to provide in-house dialysis, why she now adds it to her list of things which are dreadful and which in her view explains the state of our Health Service, is not something that I can understand. Waiting lists have shot up to unprecedented levels. Complaints about private practice. Well, private practice has now been abolished. So that is another one that she will not be able to use next year.

(15) Problems in the recruitment of consultants. See, on the one hand she says that there has been no progress, nothing has been delivered. On the other hand, most of the items on her list are no longer the case, so there must have been some progress and some delivery, even as she measures progress. (16) The increase to waiting lists for patients to see resident and visiting consultants. (17) The two year waiting list for school children with dental appointments. Compared to the position in her time, what is she complaining about? The one year waiting list to see the dietician. I am not sure there was a dietician when she was the Health Minister. (19) Patients still waiting for replies to complaints they have made about the Accident and Emergency Department. I said no, surely, that must be part of the complaints procedure. So the complaints procedure is actually six out of the 24 items and it has been fixed now. (20) The problems the Government have created with the nursing staff over the question of their having now to register every three years. She thinks that is a problem. The on-going problems with enrolled nurses being able to train up to the grade of staff nurses. Forget the fact that there is now more training of nursing staff to a higher standard than there has ever been before, forget all that. The lack of forward planning in sending our nurses to the UK for specialist treatment. The question of the many nurses which have had to be recruited on contract basis. I do not know why she thinks that is bad. The Health Authority in the UK is practically run on that basis from top to bottom. Lastly but not least, the services or shall I say the lack of services which the hospital at Europort will provide. That is her list. This is her list of the 24 items. This is her list of the issues which she says explain the crisis in the Health Service which is 100 per cent worse off than when she was the Health Minister and which has nothing to do, according to her, none of the things that patients criticise about the Health Service is in any sense, to any degree or in any manner the fault of any doctor, any nurse, or any manager or any administrator because everything is due to these things. The fact that the complaints procedure does not work, the fact that she says there is a shortage of beds, the fact that we do not train enough nurses,

when in fact we are training more nurses than ever, and an increase in waiting lists.

It is not credible to argue that all the problems in the Health Service are the fault of Ministers. She could argue that it is the responsibility of Ministers to fix them, she could argue that. She could say, 'you have been elected to fix the Health Service and therefore I do not care who is responsible for whatever is going wrong, you fix it.' Well, that would be a more conventional political debate. What is completely insincere, unreasonable and unbelievable is her attempt to say, 'no, no it is not just that Ministers are politically responsible for solving the problems, it is that they are the cause of the problems. We have got the best nurses in the world with the best bedside manners in the world. We have got the best doctors in the world with the best bedside manners in the world. We have got the best hospital management in the world but the Health Service is still a shambles because Ministers are responsible for the fact that the complaints procedure does not work properly.' It is not a credible, sincere, believable political discourse. Yet that is what year in year out she tries to get the people of Gibraltar to swallow and it just is not credible. It is not credible because ordinary people that do not have the political motives that the hon Lady has, know it is not reasonable, know it is not credible and know it is not a fair analysis. The Government are not going to respond to her again on her absurd suggestions about the kitchen not being at Europort because there was not enough room for it, or because the architect must have had a bad day on the day he got to that particular plan and forgot to put the kitchen in. The hon Lady seems intent on ignoring everything that she is told in this House or at least in not believing it. Fine. We are not going to carry on giving the same repeated explanations simply because she refuses to believe anything and everything that the Government say to her.

Another distortion of the political debate by the hon Miss Montegriffo, 'People critical of the Government for not having parking', Apparently, she starts by saying that there was more parking at the old hospital than down at the new hospital.

People will have to judge for themselves, I do not think that it is important for me to either contradict her or anything else. The hon Lady asserts that it was easier to find a parking space in the old St Bernard's Hospital than it is to find.....

HON MISS M I MONTEGRIFFO:

Point of order. I never said that there were more parkings in the old St Bernard's site. I quoted in my speech that it was in fact said by the Hon Mr Britto in reply to a press release and I was quoting what he had said and it was the opposite. He said there was already more parking in Europort than in the old St Bernard's site and that is what I was quoting.

HON CHIEF MINISTER:

Is the hon Lady having this House try and believe that the essence of what she said was not that it was easier to park a car in the area of the old St Bernard's Hospital than in the area of the new St Bernard's Hospital? It is unbelievable that she should now be resiling from that statement. She can resile from the statement but not from the fact that she said it. I have got it here, 'There are more parking spaces here than at the old Hospital'. But she denied it, she said it was not true so she believes that there were more parking spaces there at the old hospital than at the new one. 'People are critical of the Government'. Well, as I say, on that point I leave it to the good sense of the people of Gibraltar to decide whether they have a better or worse chance in finding a parking space now, but the issue is that the car park for the new hospital is not yet ready. 'People were critical of Government for not having parking as soon as the hospital opened' she said, 'and the Government have tried to blame Morrisons in their public statement when only they are to blame'. Well who has blamed Morrisons in a public statement? We did not blame Morrisons, we thanked Morrisons, we blamed them, the Opposition because if all the unbuilt area in the Westside square is not available for public

parking, it is because the Opposition Members sold it as a private car park to Safeways. Having sold it for thirty pieces of silver to Safeways so that it was no longer available to the public of Gibraltar for general car parking, they are now not in a good position to complain that there is insufficient car parking in that area of Westside. All they needed to have done was to invest a little bit of the foresight and vision, which they say they have in abundance and which we have none of, and said 'hang on, all these houses that we are building here, all of these offices that we are building here that people will wish to visit, here is a square which is parking so I am not going to sell it to Safeways for the exclusive use of their shoppers, I am going to have it for public parking so that it can be used by visitors to Harbour Views and visitors to....' They did not, and from that position, having created that problem in the first place they think that they can with credibility criticise the Government for the lack of parking spaces in the Westside area. It is astonishing. That is what we were criticising. There was not a word of criticism of Morrisons in the Government public statement. On the contrary, there was repeated words of gratitude to Morrisons in the Government public statement for having helped us overcome that problem. But it does not matter because they are not interested in the truth, they are interested in just distorting the debate. Who was she trying to deceive or does she just not know what she is talking about? So she finishes her address by saying, 'everything in the Health Service is great, the only problem is that this Government is totally unfit to govern.' I would like to put that as the epitaph in her political tombstone. Everything is great, the only problem is that the Government, that presumably has delivered the greatness, is totally unfit to govern and that is in a sense a monument, that remark which was her closing words, is in a sense a monument to everything that I have been criticising this morning on my feet, in the terms of the political discursive style of the Opposition Members.

Mr Speaker, with the Hon Dr Garcia's political debate we are damned if we do and we are damned if we do not. If tourists come to Gibraltar it is not the Government's credit but if they stop coming to Gibraltar it is the Government's fault. That is the

essence of his systematic political discourse. When the figures fall he rejects and writes off as ridiculous every explanation except the one that suits him, namely, that the Government are responsible for the decline in the figures. Well, in Spain it was not booming, I have here an article from the Daily Mail of last July which says 'the package holiday market in Spain is down by around 20 per cent for this season', that is last year, 'nearly 2.7 million Britons were booked on package holidays or flights to Spain compared to 3.5 million the same week in 2003. Jose Prieto, President of the Malaga Hotel Association said, 'some hotels in this area are cutting prices by up to 20 per cent'. But of course none of that matters because all he is interested in doing is blaming the Government for the fact that there are a few hundred less or a few thousand less coach visitors or coaches to Gibraltar. In order to make the point he asserts the contrary of what is the case, that the holiday market in Spain, I think the words he used were 'full to capacity'. They were not full to capacity, at least not in 2004. Another article here, the Sunday Times of June 2004, "Sales of holidays to Spain are at an all time low with some mass market operators still holding 40 per cent of holidays they hope to sell, and a third successive summer of discounts in peak periods of mid July and August has already begun", the sale of holidays to Spain. This is the real backdrop against which coach visitors from this very market, Spain, has fallen. Not the picture that the Hon Dr Garcia tried to create of full to capacity record number of tourists in Spain who nevertheless choose not to visit Gibraltar because we have got a dreadful Minister for Tourism. The gap is not between reality and what we say, it is between what they say and reality, that is the gap that appears in this House.

The Hon Mr Picardo has chosen to convert this Parliament into a court room, to the extent of passing up to the Speaker, but not as if he were the judge but not to the Members Opposite, what he calls a bundle which for the benefit of listeners who may not be familiar with the term, a bundle is the word used in the legal profession for a file that contains all the evidence that the lawyers refer to through the trial, both sides have one and the judge has one, so that they all have in front of them the

documents to which they are referring. He then went on to make references to prosecutions and things of that sort. There was, of course, nothing of substance in the Hon Mr Picardo's address as is clearly demonstrated by the press report. I assume that he was not hoping that the press would focus only on his assault on my person and my credibility, but since that was all the article does, of course it does it because that is the only thing that he did. There was no substance whatsoever in the entirety of his address. By the way, he has developed this sort of Politburo-ish habit of referring to the GSLP when in Government as, "the first Socialist administration". I think he said it several times. Well, it may be that the hon Member's interest in politics is too recent but the first socialist administration in Gibraltar was actually the AACR, whose full title was AACR Gibraltar Labour Party. The hon Member appears keen to coin, for the benefit of the GSLP, the phrase 'the first Socialist administration' as if it were the First French Republic, the Second French Republic and the Third. Gibraltar's Governments in future shall be known by whether they were the first, the second, the third, the fifth or the eighth socialist administration. Well, not only were they not the first socialist administration, most real socialists in Gibraltar would not consider them to have been a socialist administration at all, let alone the first one.

Then the rest of his speech was a sort of diatribe of slurs. A diatribe of slurs to taint me, which has become apparently his obsessive political chore. To describe me as unreliable, untruthful, he has said the following: 'the Chief Minister's statements have failed to represent reality. The Chief Minister misled our people. The Chief Minister is not credible, his credibility is at zero. If the Chief Minister were a witness of fact in legal proceedings, he would be sceptically regarded by the jury. The Chief Minister is very, very unreliable an interlocutor. It is not prudent to regard the Chief Minister as an interlocutor of truth', and perhaps the most serious thing that he has said because I thought that it was not allowed in this House but apparently it is if one chooses ones words sufficiently carefully, 'if the Chief Minister were a witness of fact in court proceedings,

he would be in danger of prosecution for perjury.' Well, let us examine more clearly whether it is I or he who will be prosecuted for perjury. As we go through this analysis let us remember what perjury requires. One can only be convicted for perjury if one knowingly tells a lie, knowing that it is a lie for the purpose of misleading the court. He, as a lawyer, presumably knows at least that much. So other Members of the House may use the phrase 'perjury' as a layman but when he uses it, what he is accusing me is of intentionally lying to this House, which is what it would take for me to be prosecuted or convicted for perjury in a court of law. Let us see who is the person who would, if this were a court of law with a jury, stand more likely to be convicted for perjury.

The entirety, most of anyway, his address in this area was on the basis of having read my 2001, 2002, 2003, 2004 New Year address and 2005 New Year address, and going through them with a fine tooth comb to extract from it the evidence, which he then purported to recite, how those things and one or two other items to which I will refer, demonstrate all the things that he has said about me. Let us examine them. On Harbour Views the hon Member said, "he told us yesterday that the £3 million cost of the Theatre Royal project was one eighth the cost of fixing the problems at Harbour Views. He then referred to having to make bonfires of taxpayers money to match that loss as if the taxpayers had paid for it. But in his New Year message of 2001, at paragraph 15, see My Lord it is in the bundle in front at paragraph 15, he said during 2000 Government were able to finally extract a huge settlement of £24.5 million from the Spanish builders of Harbour Views. Of course, it is only true to say that the Spanish developers paid that money not the Government, so his statement yesterday and the reference to it in today's Chronicle is not credible." That is what he said in this House, that is his evidence for suggesting that I am a liar. The reality of it is that that is not what I said. If the only way that the hon Member can convert me into a liar is by first inventing and putting into my mouth words, then I have to tell the hon Gentleman that it is not I but he that stands in danger of being prosecuted for perjury if this were a court of law. What I had

said was, I now quote myself, "that £3 million represents one eighth of what it cost to repair their Harbour Views fiasco and one quarter of the £12.5 million that it cost this Government to clear up their Incinerator/Water electricity generator fiasco," carefully making the distinction, since the hon Member despite being according to the Chronicle a barrack room lawyer, does not bother to read his brief and does not bother to read my words. By the way, it did cost the Government in a sense, I will explain that to him in a moment, but my words were not that it had cost the Government £24 million. I will read it to him again, "£3 million represents one eighth of what it cost to repair their Harbour Views fiasco", an entirely correct statement, "and one quarter of the £12.5 million that it cost this Government to clear up their Incinerator/Water electricity generator fiasco". One hundred per cent correct. In other words, one was a cost to this Government and the other was not a cost directly and entirely, I will explain that in a moment, to this Government. But does that prevent the hon Member from recasting my language as if I had said that loss is what required a bonfire, I will come to that in a moment, because not even in relation to the bonfires did I say that loss. Before the hon Gentleman makes serious allegations about the Chief Minister or anybody that he is a perjurer, he ought to make sure that at least he is expressing a view on fact and not on a gap which he has opened between fact and reality himself. In reference to the bonfires he says I said, "we would need to organise many, many bonfires with taxpayers pound notes before coming anywhere close to wasting the millions and millions of pounds of taxpayers money which they wasted in mishandled projects when they were in Government". Well, how does that compare with "he said he told us yesterday that the £3 million cost of Theatre Royal project was one eighth of the cost of fixing the problems at Harbour Views. He then referred (which I did not) to having to make bonfires of taxpayers money to match that loss as if taxpayers had paid for it". That is not what I said at all. What I said was we would need to organise many, many bonfires with taxpayers pound notes before coming anywhere close to wasting the millions and millions of pounds of taxpayers money which they wasted in mishandled projects when they were in Government. Correct. That is what I said.

The bonfire was not in relation to that loss, namely, the element of the Harbour Views that he claims the Government did not have to pay. My statement would still have been true even on his interpretation of it. True as I said it, because the statement would still have been true even if I had said what he attributes to me, because the hon Member does not know what he is talking about and launches tirades accusing me of lying on the basis of sheer ignorance of the facts on his part. He said "in Viewpoint last night, the Chief Minister said we are still paying out of taxpayers money for rushed jobs in the past, one example is Harbour Views". To which he said then in this House, "well, that is not true." Well I have got news for him, it is true. "Well that is not true as he himself said in his New Year message of 2001, the remedial works at Harbour Views were paid for by the Spanish developer, not the taxpayer. Let us look back at more statements from the Chief Minister which show that he is not credible." Well, his statement "well that is not true as he himself said in his New Year message of 2001, the remedial works at Harbour Views were paid for by the Spanish developer and not the taxpayer", contains two things that are not true. (1) In my New Year address of 2001 I did not say that it had been paid for by the Spanish developer and not by the taxpayer. I said that the Government had managed to extract a settlement of £24 million from the constructor. Well those are different things are they not? What makes the hon Member think that the amount of money extracted from the contractor, which is all I said, represents the full cost of the Harbour Views repairs?

HON F R PICARDO:

Point of Order. The point of order is very simple, the Chief Minister in the part of his speech which he has just regaled us with said very clearly, whether he said it was the Government that paid it or not he said that the cost of repairing Harbour Views was eight times £3 million. That is £24 million, that is where I get it from.

HON CHIEF MINISTER:

What is the point of order? What it now requires of me is to repeat my explanation because what I cannot do is allow the hon Member again, to obfuscate his own distorted point. Does he not understand the careful explanation that I have just given him which is that in respect of the Harbour Views repair I did not say that the full cost had been borne by the Government, which I did say in the case of the incinerator. Does he not hear what I read to him? What I said in the House was, “the £3 million represents one eighth of what it cost to repair their Harbour Views fiasco”, which is a fact, “and one quarter of the £12.5 million that it cost this Government to clear up the in town fiasco”. In other words, in one case it was this Government and in the other case it was not. Does he not understand that that was the issue? *[Interruption]* The hon Member has got to understand that having ventilated his dishonest instincts in this House against me, now he has got to listen to the reply and there is no point jumping up and down like a nervous Jack in the Box in the hope of not hearing the reply. He has got to hear it. I know that eight times three is 24. The hon Member is even more obtuse than I had thought if he thinks that that is the point that I am making. When it comes to the bonfire I have already explained to the hon Member that the references to bonfires were to the millions and millions of pounds that they in Government had wasted in mishandled public projects, which I will now go on to explain the millions and millions of pounds in mishandled public projects that they were responsible for, and not that expenditure, that cost as he pretended in this House, namely the Harbour Views £24 million.

I then moved on to explain that he then challenged me for what I had said the previous night in Viewpoint, when I had said we are still paying out taxpayers money for rushed jobs in the past, one example is Harbour Views. He said, when he got up, “well that is not true as he himself said in his New Year message of 2001, the remedial works in Harbour Views were paid for by the Spanish developer and not the taxpayer”. I was just explaining to him that there are two things in that statement that are wrong.

(1) It is not true that in my 2001 speech I had said that it was the Spanish developer and not the taxpayer who was paying. So the whole premise of his accusation of lying on my part is itself a lie. Then the second thing that is not true in his statement is that I regret to tell him that it is true.....

HON F R PICARDO:

Point of Order. I said throughout that I had avoided.....

MR SPEAKER:

Will the hon Member accept that a point of order is different from trying to justify a reply to the speaker.

HON F R PICARDO:

Absolutely, but Mr Speaker has an obligation to rule on points of order. My point of order is this. I studiously avoided calling the Chief Minister whatever I may think of him, a liar, but he is now saying that I made remarks which were lies. Well what does he call me?

HON CHIEF MINISTER:

Well to avoid Mr Speaker having to make a ruling, I withdraw the word “liar” and replace it with his phrase which is “if this were a court of law he would be prosecuted for perjury”. The hon Member thinks that there is a difference between those two, does he? He stands up like a nervous person, like a nervous Jack in the Box to draw the distinction between the word ‘liar’ on the one hand and the word ‘perjurer’ on the other, as if there was any material difference between the two. It is just another example of the hon Member’s personal and political style. I will get this point out and I will have to start it again.

So I had already said that of the things that he said, well that is not true what the Chief Minister had said on Viewpoint last night, I regret to say to him that two of the things on which he based his statement that what I had said was not true, were themselves not true. Therefore, his accusation that what I had said was not true were false and that he has accused me of being a perjurer, unreliable and not an interlocutor of truth, if he prefers all those phrases to the simple equivalent in the English language is that he is telling the listeners that I am a liar, but he thinks that honesty justifies the distinction between those two. The second element in which his statement is not true is his denial, or his description as well that is not true, my statement that we are still paying out taxpayers money for rushed jobs in the past, one example is Harbour Views. Well that is not true, well it is true. We have so far, so he can prepare himself for still paying out, we have so far paid out of taxpayers money, we had to fund it and recover it later, £28.4 million for the repairs of Harbour Views less the £24.4 million that were eventually recovered from the settlement of the court action, of course we had to start the works, we had to spend the money, we then recovered £24.4 million out of £28.4 million leaving £4 million, conveniently more than the £3 million that he says that we wasted on the Theatre Royal, leaving £4 million actually not recovered from the Spanish contractor and paid for out of taxpayers money. Namely, the taxpayer paying with taxpayers money for their mishandled public projects which is what I accused him of and he nevertheless felt free to call me a liar. It is on-going because it still has not finished. It is true, not a lie, it is true when I say that we are still paying out taxpayers money for rushed jobs, because it has not finished even in Harbour Views. We are still having to repair now, make a start on the podium which is going to cost the taxpayers £2 million. So by the time we finish with the podium, which is the last element of the Harbour Views fiasco, it will have cost the taxpayer £6 million more than it was eventually able to recover from the developer. Perhaps that is not a sufficiently impressive margin for him, twice the £3 million that he accuses us of wasting in what he called the hole in the ground in the Theatre Royal, and

my statement about the taxpayers and the bonfires and my statement on Viewpoint, “we are still paying out taxpayers money for rushed jobs in the past. One example is Harbour Views”, because Harbour Views was only an example in that statement, there are others. We are still paying out hundreds of thousands of pounds a year, totalling millions, for Brympton for example. The hon Member may have heard a caller to the Viewpoint asking me when we are going to get on with repairing the Brympton fiasco, which we inherited too. *[Interruption]* Not the completion. I am sorry, Brympton was not finished before 1988, was it?

HON J J BOSSANO:

The Brympton contract was given to the contractor on the terms on which it was given by a previous Government and all that we did was offer the people who bought it 100 per cent, 50/50. That was the extent of our involvement in Brympton.

HON CHIEF MINISTER:

Practically the entire construction period was in their time and the failure to ensure that the construction, to the extent that they accept responsibility for that, they never accepted it in Harbour Views, to the extent that it was the public administration’s responsibility to ensure that a scheme to which they had given the 50/50 after the event was properly built or not, all happened on their watch. So we are still paying out taxpayers money for rushed jobs in the past, of which Harbour Views is just one example.

So, if the Hon Mr Picardo were a witness of fact in legal proceedings, he would already based on these two examples above, be sceptically regarded by the jury. This is what he said of me. It is not scepticism that would have been his situation given the complete distortion and abuse of what I said and what I did not say, and of what I have said that was true and what I

have said was not true. Of course, it is always possible to distort and misrepresent my words, make them tell a lie and then say, 'you are a liar'. But I am not a liar on the basis of what I have said, I am a liar on the basis of what he says that I have said. So who is the interlocutor of truth in this House? His statement that if I were a witness of fact in legal proceedings he would already, based on these two examples, be sceptically regarded by the jury. Well, apparently not sceptically enough by the jury of the electorate who went on to re-elect us in 2003 despite my saying all these terrible things in my New Year address of 2001. So I can only assume that they regarded them even more sceptically than they regard me. Except that the electorate have no reason to regard me as sceptically for any of the two reasons, so far, in those two examples that the hon Member has quoted.

He then moved on, because the House will remember that this was a review of the Chief Minister's not occasional dishonesty but systematic dishonesty year after year after year, that was the essence. So having finished with 2001 he then moves to 2002 and he goes to the Leisure Centre. In respect of the Leisure Centre he says, quoting from 2001, "this year we will also be making a start on the youth leisure centre at King's Bastion. The first phase will see the building of a multi-lane bowling alley and a large dancing and disco hall, as well as other facilities in the old generating station. This will also provide a much needed large indoor venue for many other social and leisure events in Gibraltar, 2001 of course, not enough that the electorate has understood and has revoted us in, that is not enough for him. He nevertheless wants to convert that into evidence of dishonesty on my part. Well, I can understand if the hon Gentleman wanted to submit us to political criticism for failure to deliver what we said would happen. If the hon Member had wanted to say, 'well the Government made a political commitment to build a leisure centre and they did not', well that would be perfectly legitimate political comment and criticism. What is not legitimate is for the hon Member to try and use that in his litany of evidence to suggest that I am unreliable, untrustworthy and if I said that it was one o'clock he would

check with his watch, because he ignores the fact that the Government have given a public explanation of why that has not materialised. But he does not care, he thinks that the reason why the leisure centre has not yet materialised in King's Bastion is because I am a liar, ignores and does not care the fact that we have said to the electorate that there were doubts and huge debate about whether or not the electricity hall would or should be demolished. It is up to him to decide and everybody else to decide whether he thinks that a failure for good, bad or indifferent reasons, stated or not stated, whether he thinks that the political accusation of not having honoured a manifesto commitment justifies all the accusations that he has raged against me about my personal trustworthiness. Obviously he does, because he must know that perjury, as I have already told him, he must know that perjury means knowingly telling a lie. So this is a pretty high standard. According to the hon Member, perjury is, in other words, telling a lie is not honouring ones political commitment. So if one fails to honour a commitment or if one fails to do something that one says one would, that according to the hon Member is perjury. Well, it may make me politically unreliable but that is not what the hon Member said. He was not saying, 'electorate, never vote for this Government again because they make promises that they do not keep'. What he said was, 'this man tells you lies to the extent that if he tells you the time of day, check because he is probably lying to you'. Not the same thing is it? But does he care about the difference? No. He does not care about the difference.

He then moved on to 2002. The Theatre Royal and the Hospital, of which he said, 'this is another example of how the Chief Minister is such a little liar', or a big liar in his view. Now, of the Theatre Royal in my 2002 address he says, 'he referred to the Theatre Royal, which he described as the GSD's major cultural project, a beautiful theatre at the Theatre Royal. He said of that and the conversion of the new hospital that both these major facilities are scheduled to be ready in late 2003.' Well neither were ready by late 2003 and both were unreliable statements. Of course, if he had made clear that what he was saying was that these were politically not honoured

commitments, then that would have been perfectly..... No, he cannot now pretend that that is what he was doing because all of these were interlaced with one o'clock on the watch, interlocutor of truth, unreliable, untrustworthy and perjurer. Anybody listening to that debate would have come to the conclusion that the list of examples that he was giving were to demonstrate that theme. Is the hon Member not aware, in respect of the Theatre Royal, that the Government have publicly announced a decision to pause on the Theatre Royal in response to criticism that we had got our priorities wrong in proceeding with the Theatre Royal before we had done the housing and the Leisure Centre? Presumably the hon Member must know that that is what the Government have said and that that is why the Government are not proceeding with it. Not because of the unreliability of the Chief Minister. In respect of the new hospital, does he feel entitled to insinuate that I am a liar because I said that the hospital was scheduled to be ready in late 2003 and it was not? Well it was at that time scheduled to be ready in late 2003. The lie would have been if it was not scheduled. The fact that something is scheduled, turns out to suffer delay, does not make the original statement that it was scheduled a lie, or is that too complex a logic for the hon Member to grasp? He may now wish to pretend that unreliability was the main theme, he can persuade the marines of that, or try to persuade the marines of that if he wants to. So why does the hon Member think that the fact that the hospital was scheduled for completion in 2003 and suffered the sort of delays that most public sector projects suffer in the execution, why does he think that makes me even unreliable? Let alone untrustworthy or a perjurer. Why is it even unreliable if I say in January it is scheduled for completion in February next year, and in fact the project gets into technical delays and suffers delay? Why is that even unreliability?

In respect of 2003, 2004 and 2005 I will make no huge comment because there what he is saying is that the Government had suggested, had committed themselves to building affordable housing and for a variety of reasons, none of which would obviously persuade the hon Member that I am not a liar, the

Government have not done so. It is true that for a variety of technical and other reasons this project has been much delayed, on top of the Government's policy delay in recognising the need for it, to which I have already alluded in public. This is a matter for legitimate political criticism but whether it justifies some of the other more strident remarks of the hon Member, whether it makes me a perjurer, on that basis every politician that does not deliver on a commitment is a perjurer, meaning an intentional liar. In respect of 2005 he said, 'later this month the Government receive the construction tender bids for a housing scheme at North Mole, on which construction will therefore start in February'. Well, February came and went, as has March, April, May and now June, again nothing has happened. Another example of the Chief Minister's perjury, unreliability and untrustworthiness to be believed when he tells the time. Except that the hon Member's statement is not true. No, it is not true to say that nothing has happened, or has he not been to the site? It is true that the buildings have not started to go up vertically but it is not true that nothing has happened since February. He must have been there, he must have seen the site taken possession of, he must have seen the site being cleared, he must have seen borehole trials being done on the foundations, he must have seen a degree of preparatory work being done. It is true that the negotiations with the contractor have broken down and that we are now talking to another one, but it is not true that 'well February came and went as has March, April, May and now June. Again nothing has happened'. What happened was what was intended to happen, that is, that the tenders would come in, there would be a period of time to negotiate the tender and sign up the contract, and that in the meantime activity on the site would begin, and it has. If his definition of construction is limited to the placing of one brick on top of another in a row and nothing else is part of the construction process, well there are things that have to be done before being able to lay bricks one on top of the other and it is also part of the construction process that begun in February. If he had said, 'progress of construction was not as quick as was envisaged', that might be true but if he chooses to say that nothing has happened in February, March, April, May and now June, I regret

to tell him that that is factually not true. Since what I am here is on trial for perjury, with the judge looking at his bundle ticking off his allegations against me as he makes them one at a time, he will forgive me if the truth of the accuser is relevant to the defence by the perjurer.

He then said, 'Well Mr Caruana, it is not prudent to regard the Chief Minister as an interlocutor of truth in any matter on which he addresses the people. He is an inveterate liar and he is not an interlocutor of truth in any matter on which he addresses'. Then he illustrated that by reference to tax, and he said, 'and one has to sit here and listen to the Chief Minister tell us that he has reduced peoples taxes by 40 per cent. It is there in paragraph 52 of his speech yesterday, which is at Table 6 of the bundle My Lord. Well, that is just a diversion. There has not been a 40 per cent tax cut.' This statement by the Hon Mr Picardo, upon which he bases his accusation that I am not an interlocutor of truth in any matter on which I address anybody, is simply not true. I said that we had reduced peoples taxes by nearly 40 per cent and so we have. I am grateful for the opportunity that the hon Member now gives me to once again remind the people of Gibraltar the huge amount, more than 40 per cent actually, by which we have reduced peoples taxes. That is what I said, he says it is not true and on the basis of it says that I am an interlocutor not to be believed on anything that I speak of. Well, since 1996 the following new tax allowances have been introduced. I am afraid I cannot bring him up to date by reference to this year's increases because I am reading from the GSD Election manifesto, which of course he would not believe a word of except that most of it has been delivered. We have introduced private nursery fee allowance; we have introduced private medical insurance premium allowance; we have abolished savings income up to £5,000 and in this year's budget abolished it altogether; we have varied and improved the child allowance if children are in temporary jobs; we have amended and improved the child allowance for a second child studying abroad; we have introduced an extra £4,000 as at November 2003, of an extra £4,000 in home purchases allowances; in 2002 we introduced the low income earners tax

credit as the means of targeting extra tax cuts to the lowest paid so that anyone with assessable income below £8,000 per annum will receive £230 per annum in the form of a tax credit, that is to say, in a form of a reduction in their tax bill. We have increased personal allowances just up to 2003, personal allowances by 68 per cent; wife allowances by 68 per cent; one parent family allowances by 68 per cent; child allowances by 70 per cent; first child studying abroad by 70 per cent; second child studying abroad by 76 per cent; home purchases allowances by 40 per cent. We have widened and/or eliminated tax bands. So, whereas in 1995/1996 the first £1,500 were payable at 20 per cent, the second £5,500 was payable at 30 per cent, the next £5,500 at 35 per cent, the next £3,500 at 40 per cent, the next £3,500 at 45 per cent and the balance at 50 per cent, as at the date of the last election that had been reformed so that the first £4,000 was at 17 per cent, the next £6,000 was at 30 per cent, the next £5,000 at 35 per cent and the top rate had reduced to 45 per cent from 50 per cent. Then just the allowances and the band restructures, without any of the new allowances, without the nursery fees, the medical insurance, the savings income, just the personal allowances and the tax thresholds have, compared to 1995/1996, compared to the tax practices that we inherited, the tax on a single person earning £8,000 had been reduced by 44 per cent; £15,000 per annum income to 21 per cent; £20,000 to 16 per cent and income of £25,000 per annum had gone down by 14 per cent. In the case of married couples it was 41 per cent; 31 per cent; 25 per cent; 19 per cent. In the case of married couples with one child with income of £8,000 their tax bill was effectively cut by 77 per cent; £15,000, £20,000 28 per cent; £25,000 22 per cent reductions respectively. The elderly persons in the form of the elderly persons regime that we introduced, a single male pensioner earning an income of less than £7,900 had his tax reduced by 100 per cent; £9,000 by 72 per cent; £11,000 by 42 per cent and so on and so forth for single female pensioners and pensioner couples. The overall effect of the new allowances, the remodelling of the thresholds, the abolition of taxes compared to the practices that went on before, is that people have had their tax bill reduced by more than 40 per cent compared to what

would have been the case had we not taken any of these steps. Question, have we or have we not reduced peoples taxes by 40 per cent? Answer, yes. He says that I am a liar, that we have not increased peoples taxes by 40 per cent because presumably, he means that people may pay more tax now than what they were before because they are earning more money. That is not what is meant by tax cuts. What is meant by tax cuts is that but for the tax cuttings they would be paying even more tax than after the tax cutting. That is what cutting taxes means and if the hon Member had wanted to challenge that and said, 'well hang on, the Chief Minister means tax cuts meaning that if it had not been for the election of the GSD Government that did all the things that they have done, and the GSLP had been elected and carried on not increasing peoples allowances, never widening the bands or never doing anything like that, peoples taxes would have been higher than under the GSD Government'. I would have said 'yes that is what I mean. That is what most sound, rational people mean by tax cuts'. But that is not what the Opposition mean by tax cuts. The opposition means that somebody who was paying three and six by 1996, because their pay has risen since then, they are now paying more than three and six and therefore peoples taxes have not been cut because people are now paying more tax. Well, even if the hon Member had wanted to defend that absurd proposition, and even if the hon Member had wanted to argue that that was the proper definition of tax cuts, would it not have been a little bit more appropriate for the hon Member to have made that point rather than saying that I was lying? Rather than saying that I was lying when I was not. The lie was in his mind because his definition of tax cuts is different and wholly unusual, and wholly unconventional and wholly extraordinary. By reference to that definition of tax cuts he feels quite entitled to stand up in this House and tell the people of Gibraltar that I am not an interlocutor of truth in any matter on which I speak. [Laughter] Well the hon Members may think it is funny, I very much doubt if the people of Gibraltar listening to this debate think that it is funny. They think it is funny, I doubt if anybody else does. They think it is funny because they are irresponsible, because they do not care about the truth and because they do

not care about what they say about other people. They will be caught out by the electorate. Between now and the next election they will succeed in persuading the electorate that they should be overlooked a fourth time in a row. That is what they will achieve by this sheer dishonesty in discursive political style.

Then the next example was in relation to the Financial Services Ombudsman. 'So, whether the Chief Minister is making statements in the House as to the geography, like in relation to the location of the Royal Opera House in London, or statements in New Year messages on the commencement and completion dates for Government housing schemes or leisure centres'. I am quoting the hon Member from his speech, 'or telling the House whether or not he has held a formal consultation process for a new Ordinance, like in relation to the Financial Services Ombudsman, the statements that come from the Hon Mr Caruana's mouth are unbelievable. If he were a witness of fact in court proceedings he would be facing prosecution for perjury'. Let us examine the basis of this allegation on which the hon Member makes these particularly grave charge of in relation to the Ombudsman, where he claims falsely, completely falsely, he claims that I have said anything about a formal consultation process for a new Ordinance, like in relation to the Financial Services Ombudsman. I have said absolutely nothing about a formal consultation process for an Ordinance to establish a Financial Services Ombudsman. Nothing about a formal consultation process for a new Ordinance for a Financial Services Ombudsman. Let us see what it is, let us see the basis upon which the Hon Mr Picardo feels entitled to call me a liar.

Well, it all boils down to this. In the answer to Question No. 446 of 2004, or rather in supplementaries to that, the question related to the Financial Services Ombudsman, and after the original question and answer the Hon Mr Picardo asks, 'in relation to the first answer given by the Chief Minister, at what stage is the Government's consideration of this issue of the Financial Services Ombudsman, and what more can the Chief Minister share with the House as to the type of creature that the Government are considering?'. To which in supplementary I

said the following, 'I cannot give the hon Member any details as to the statutory framework because I do not think that a lot of work has been done on it, but certainly the issue has been consulted on, the Financial Services Commissioner has expressed his views, I know that he has discussed with the previous Minister with responsibility for Financial Services but the Financial Services Commissioner is keen because at the moment, as there is no Ombudsman at all, all the complaints go to him and it is not really his job unless the complaint raises regulatory issues.' Then it goes on, his next question. It goes on in a way that does not shed any more light on the issue before us. He then asked, 'can I urge the Chief Minister in that process of consultation, that I will not be consulted further, that I will get chance to put my little grain of rice in this particular forum that if we are to have an Ombudsman we should not fall into the trap of having an Ombudsman again with no teeth et cetera.' The Chief Minister: 'I am not sure that I could consult the hon Member in his professional capacity since I am led to believe that he is no longer the partner of any firm and that he is now a consultant'. Then it goes on in that way and it all ends up with my statement in the last supplementary, 'as I say, I have said that I was not aware of the sort of powers wielded by the Financial Services Ombudsman. I am familiar with the powers wielded by the Public Service Ombudsman because we had to research it at the time that we created ours'. I also said, 'I am not aware because I am not familiar with the powers that are held by the Financial Services Ombudsman, but I have said that I would expect ours to have the same power'. So, certainly the hon Members will now have heard that the words 'consulted on' were included in my first answer. I will repeat it, 'but certainly the issue has been consulted on, the Financial Services Commissioner has expressed his view, I know that he has discussed it with the previous Minister with responsibility for Financial Services that the Ombudsman is keen et cetera, et cetera'. In answer to Question No. 489 of 2005, remember that one was question No. 446 of 2004, this is No. 489 of 2005, so possibly nearly a year later, again the hon Member asked me questions in relation to the possibility of establishing a Financial Services Ombudsman since the last answer in the House. I

gave him the written answer, he then asked a supplementary which I answer, he then asks another supplementary which I answer and then he asks the last supplementary which is, 'yes I appreciate that. Clearly I think there was agreement across the floor of the House that it would be a good idea, what I am saying is that in the first answer the Chief Minister gave me the impression that it was a good idea and it was going to happen and now we have moved to a stage where it is unlikely to happen'. Hon Members may recall that the second time round I gave less impression of enthusiasm or imminence of activity on the part of the Government. Chief Minister: 'no, there is no specific reason why it is not being worked on or is not on the agenda. Certainly the hon Member says it would be a good idea. Well that depends on how it pans out, I do not think it is a good idea that the taxpayer should constantly take on its shoulder the financing of activities that in other countries are financed directly or indirectly by the industry. But that issue has not arisen because the Government have not consulted anybody about it and no one has had the opportunity to say whether they think it is a good idea that they should fund it or that it is not a good idea.' It meaning whether the industry should fund it or not. As to the funding of the Ombudsman the point is this, the hon Member bases his allegation that I have misled this House on the fact that I use the word 'consult on' in the sentence in which it goes on to make it clear that the consultation that has taken place is with the Financial Services. There is no reference to consulted on with the industry, it must have been pretty clear to the hon Member from the rest of the answer, where I was telling him that I did not know what the powers of the Financial Services Ombudsman were, that there cannot have been consultation. Because if there had been a consultation process, at least I would know what the powers of the Ombudsman are. I used the words 'consult on' but not consult on with the industry and not consult on about an Ordinance, or not consult on in the formal consultation sense. His accusation was that I had said that there had been a formal consultation process about legislation. What I had actually said was that consulted on, Financial Services Commissioner has expressed his view, I know that he has discussed it with the

previous Minister with responsibility for Financial Services. In the next answer, the next time he answers the question, I tell him that that issue, whether it should be directly or indirectly financed by the industry, I will read it to him again. 'I do not think it is a good idea that the taxpayer should constantly take on its shoulder the financing of activities that in other countries are financed directly or indirectly by the industry. But that issue has not arisen because the Government have not consulted anybody about it and no one has had the opportunity to say whether they think it, mainly whether it should be financed by the Government or the industry, is a good idea.' On the basis of that the hon Member tells this House that I have misled it as to whether a formal consultation process for a new Ordinance, like in relation to the Financial Services Ordinance has taken place.

HON F R PICARDO:

Point of Order. The allegation is not that the Chief Minister misled the House. I did not tell this House that the Chief Minister had misled the House. That is the allegation which the Chief Minister has chosen to address. The allegation in my speech is that the Chief Minister may have misled the House with contradictory answers. So I would be grateful if the Chief Minister could be directed to recharacterise what I said. It is one of the rules as to what points of order are.

HON CHIEF MINISTER:

Oh I see, so he was not telling people on Friday that I am an unreliable interlocutor about everything that I said, and that he had to look at his watch if I said it was one o'clock. What he now claims he was saying is that I may be a valid interlocutor, that I may be a perjurer and that if I tell the time and it is one o'clock one may have to look at the watch to check. Is that honestly the degree of seriousness that this community is to place on the Hon Mr Picardo's political intercourse. I put it to the hon Member that when he is caught, when he thinks that his

statements are not going to be researched, when he thinks that his statements are not going to be forensically analysed for the untruths that they amount to and he is thus caught out, he thinks that he can wriggle like a fish on the hook by saying that that is not what he said or that is not what he meant. Well it is perfectly clear, pick up today's Gibraltar Chronicle for their view of the sense of what he was saying. It is not that they are reporting badly, it is that is what he said and to now distinguish between whether he said 'may be a liar' or 'is a liar', 'may have misled' or 'has misled' is frankly a disgraceful attempt on the hon Member's part to resile from the responsibility that he has for his statements in this House.

Let us move on to other issues that the hon Member said. [*Interruption*] I was going to move on to other things but if he wants me to carry on in my forensic examination of the fact that the Hon Mr Picardo has disgracefully abused the privilege in this House by putting words into my mouth which I have not said, only then to insinuate that I am a perjurer, if he wants more I can give him more. On other issues, he said, 'for that reason that it is right that this House should scrutinise every penny that is to be spent and to seek to ensure that there is no waste of public funds.' Well, it is just as well that the hon Member was not in this House before 1996, because certainly before 1996, the party of which he is now part of the prominent leadership of, did not believe that it was important that the House should be able to scrutinise every penny that is to be spent and to seek to ensure that there is no waste of public funds. When we arrived in office in 1996 only 53 per cent of the total revenue and expenditure of Government was before this House in the Appropriation debate and in the budget debate. So he is very privileged now that he is able to scrutinise every penny that is to be spent, to seek to ensure that there is no waste of public funds. We certainly did not get that chance when the Leader of the Opposition sitting next to him, who he so obviously and deeply admires, took the opposite view of public finances and the importance of the House being able to scrutinise every penny that he now professes. Or are we to air brush away the whole of this history? Is the GSLP now going to become the

champion of transparency in public finances when they spent eight years burying them so deep that the United Kingdom Government had to bring auditors from England to check the network of companies? Is that what the Hon Mr Picardo would have the people of Gibraltar believe? He then went on to say, 'increased revenue comes principally from increased fees and charges and utilities, for which the GSD did not seek or obtain a mandate for at the last election'. Indeed, I have heard the Leader of the Opposition make a similar remark in public recently. What are we to understand by this remark? That in democracies political parties seek a mandate to raise taxes and utility prices? Are we to understand by this remark that a manifesto limits what a Government can do? If it is not in the manifesto it cannot be done, if that is what it means, which would be absurd, I do not recall ever seeing in the GSLP manifestos the request for a mandate to increase Social Insurance contributions every year by 10 per cent. So what has changed? Why could they increase taxes every year, why could they increase Social Insurance contributions every year without a mandate, but when we increase electricity prices we need a mandate? Did they have a mandate? Does he not care what he says or does he not know what he is talking about?

In respect of the charges increases, for which they also say we do not have a mandate, he said, 'my fear is that the Government's expenditure has required increases in utilities which will affect the pocket of the elderly and the less well off. That will have an indelible effect on their daily lives, and although issues which relate to the detail of the raised utility charges and Government fees will be dealt with by my hon Friend Mr Randall, I must tell the Chief Minister that these are the concerns that we must all carry in our consciences. The concern that we must all carry in our consciences', according to the Hon Mr Picardo, 'is that these electricity and water utility increases and other charges will affect the pocket of the elderly and less well paid and that this will have an indelible effect on their daily lives'. Apparently, he carries this around in his conscience and invokes us to do the same. Well, where was his conscience when his party increased Social Insurance

contributions every year by 10 per cent, which as we all know, hits hardest the lowest paid because it is a flat tax paid at the same rate whether one earns £200 a week or £2,000 a week? Where was the GSLP's conscience when they were raiding the pockets, not once, not twice but year after year, after year, after year, by a compound 10 per cent? Where is the conscience of the GSLP that now so burdens the Hon Mr Picardo? Where was the conscience of the GSLP for this indelible effect on the daily lives of the elderly and the least well off when he failed to increase their tax allowances every year? So that not even did he keep inflation adjusted value of the existing level of tax allowances. Even the value of tax allowances were reduced as a proportion of peoples pay because they failed to increase them by the rate of inflation. So, where was the GSLP's new found conscience for the elderly? When he tells me that we must all carry, I doubt that there is very much in common with his conscience and mine, but when he says that we must all carry in our consciences these utility increases after 20 years, and the second Social Insurance contribution, and the others which are minute compared to the increases that they introduced, does he forget or does he not care that we have announced a cash payment for the elderly that almost certainly will exceed in value the effect of the tariff increases on the elderly. Why does he seek to mislead the House and public opinion in this way? Does he not know that in the very same press release that we announced the utility increases, we announced an elderly persons utility grant, which is probably more than the effect of the increase in utility charges? What is it, that he does not care of the truth of what he says or that he does not know what he is talking about? When he invokes the conscience of the elderly and the less well off, where was this conscience when year after year, after year of GSLP Government there were no increases in Social Security benefits, in Social Assistance allowances, in Disabled Benefits, in Unemployment Benefits? Is there anybody more deserving of the hon Member's conscience than that? Yet they saw fit to freeze the allowances year after year, and it was only until this allegedly uncaring Government with no conscience was elected into office, that we increased it not just by the rate of inflation in

our time but to make up for all the years that they had left them frozen. Where was the conscience of the GSLP when they froze the benefits and grants in Social Assistance payments of the most vulnerable members of our community? When he says that these £3 a week on water and electricity, that it is going to have an indelible mark on the lives of the elderly, does he choose to forget or does he not care, or does he not know that the Government have introduced the Elderly Persons Minimum Income Guarantee? So that the Government tops up the income of every elderly person now, thanks to this GSD Government, to £90 odd for a single person and £120 odd for a married couple. When he is invoking the memory of the effect of these increases on our elderly, does he forget that we have now eliminated for all practical purposes, all taxation on our elderly but that they taxed year after year the whole of their pensions and everything? Does he not know these things or does he want to mislead the House, or does he not care the truth of what he says? When he speaks about the indelible effect on the daily lives of the least well off, does he not know how the introduction of the Low Income Earners Tax Credit, the restructure of the tax bands, the increased and new allowances, has hugely poured extra money into the pockets of the lowest paid in Gibraltar compared to the amount of money that they used to take out of them? When he speaks about the indelible effect on the daily lives of the elderly, does he not know that the Government have invested, through the Pensions Fund, in allowing people without a full contribution record to make up, three or four opportunities have now been given, so that their pensions could be made up to the full? Does he not know that even if one adds up all the increases in utilities, without increase in Social Insurance contribution, of course it does not affect the elderly because if we relieved them this year even of the little bit of Social Insurance contribution that they had to pay when they carried on working, does he not know that this is peanuts compared to the amount of money that we have put in their pockets through all these things, and peanuts compared to the way that they have raided the pockets of the least well paid, and peanuts compared to how they deprived them as the most vulnerable members of our community of even inflation-adjusted disability allowances,

even inflation-adjusted unemployment benefits, even inflation-adjusted family income support benefits? Does he not know all that or does he not care? I think it is both. I think he neither knows but if he knew he would not care either.

Then when they talk about these hundreds of other charges that the Government have made, of course because the Government are so short of money, they are such incompetent handlers of the economy that the Government have had to increase all these other charges, hundreds of them the Leader of the Opposition said the other day, and I said to myself, 'my goodness, let us see what happened in the past'. So I asked a chap to do some research. Now, it transpires, ha, ha, that most of the charges that we had increased they had increased by even more when they were in office. One can imagine my surprise on behalf of the people of Gibraltar when I realised the extent of the confidence trick that the hon Members were trying to play on the people of Gibraltar by feigning indignation at the size of these other charges increases, when I discovered what they had done in respect of a number of the same charges. So, we inherited a self-drive fee of £12 and we proposed to increase it to £24. They inherited £2 and increased it to £12 – an increase of 500 per cent on 1st December 1990. Application for road service licence – they increased from £1 to £5 – 400 per cent. For every road service licence per vehicle they increased from £2 to £100 – 4,900 per cent. For every transfer of a road service licence they increased it from £2 to £100 – another 4,900 per cent increase. For every duplicate road service licence they increased it from £1 to £5 – another 400 per cent. For every application for the amendment of a road service licence, again they increased from £1 to £5 – 400 per cent. For every renewal of a road service licence they increased from £2 to £10 – 400 per cent. For a dealers licence to use one vehicle at any one time, they increased from £40 to £100 – 150 per cent. For each additional dealers licence issued to the same motor trader during the currency of the licence, they increased from £10 to £25 – 150 per cent. For the issue or renewal of a driving licence, the thing that affects every motorist which is dreadful Government increasing the cost of motorists because

they are short of money, because we are incompetent managers of the economy, they increased from £3 to £20 – an increase of 560 per cent. Compared to the £5 increase which we have introduced and which they describe in the way they have described. They ought to be ashamed of their lack of political integrity. They systematically treat the people of Gibraltar with a degree of contempt that more than amply explains why they have lost three elections in a row. Let us carry on. For the issue of a duplicate licence for the poor chap who loses it, the poor pensioner who loses his licence after so many years and goes to get another one, £3 to £20 increase by them – 560 per cent.. For inspecting the register for each hour or part thereof from £1 to £5 – 400 per cent. Copy of an extract from the register for the folio of 72 words or part thereof, from £1 to £5 – 400 per cent. For a licence to drive a vehicle, they increased from £4 to £5 – 25 per cent. For a licence to act as a conductor, they increased from £3 to £5 – 66 per cent. For a duplicate of any licence, they increased from £1 to £5 – 400 per cent. Renewal of licence to drive or conduct a public service vehicle, they increased from £4 to £5 – 25 per cent.

Now I go back to the hon Member's alleged collective conscience for the least well off in our community and the elderly. Under the GSLP Government it was not even financially safe to die. They increased the fee for the hiring of the hearse from between £5 and £7 to £15 to £20 – an increase of 186 to 200 per cent. Under the hon Members the pauper could not even die with peace of mind without having to pay more charges to the then Government. There is no limit to the political hypocrisy, to the political dishonesty and to the extent to which the hon Members are willing, with brazen, bold-faced cheek, to con the people of Gibraltar in their political statements, that is because they do not care about the truth of what they say, they do not care about whether what they are saying is accurate or not. I repeat, the gap that exists here is not between the reality and what the Government say, it is between what the Opposition say and reality and this proves it as well.

The hon Member took the Minister for Education and Employment to task over the unemployment figures, gently to task, because it stood at 332 average, identical to what it was in 1996. Of course, that is strictly true if economic debate is going to be limited to just looking at one figure and comparing it in absolute terms to the other, but he must know that that is not how unemployment is measured. If he wants to do the percentage game, if he wants to look at averages then he has got to look at the numbers in relation to the jobs in the economy, because 332 in 1996 is not the same percentage unemployment as the same number when the number of jobs in the economy has grown to nearly 16,000. The hon Member believes that 331 out of twelve thousand and something is the same percentage as 332 out of 15,999. It is true that in absolute numbers the average this gyrates that is usually seasonal, has not fallen. It has fallen seasonally but the figures that the hon Member quotes is accurate enough for the limited political purpose but insufficient political purpose for which he put it. As a percentage of the overall number of jobs in the economy, the percentage of people unemployed has fallen and I think in this House we have come to accept, although not formally declare, that there are a number of people below which it is impossible to get because it harbours unemployables, it harbours people that are not really looking for work that are just there because they really want to do is carry on claiming social benefits for which purpose one has to be registered unemployed. Now I may be speaking out of turn, we have never actually declared that there has been almost an acceptance over many years in this House, that there is a level below which, whatever one does one cannot get. This is proof at a time when the number of jobs in the economy has grown by several thousand, the number of Gibraltarians unemployed remains more or less subject to variations around the 300, 320, 330, and that is not remediable very easily, because for the reasons that I have just said. The hon Member must also know that for this very reason, well perhaps he does not, that for this very reason the OECD economic definition of full employment is not zero per cent. Anything under, I think, 3 per cent or two and a half per cent, is structural full employment. Therefore we are there. The hon

Members were very critical once when we toyed with the idea, I do not remember what it was called, the job seekers business, when we said, 'well let us see why these people stay for so long on the unemployment register. Like the Socialist Government have done in the UK let us see if we should not be shaking the system to shake out the ones that are not genuinely unemployed, clutter up the unemployment figures, but are just there to stick their hands out at the end of the month for social assistance'. The hon Members were highly critical of it, I think we might well return to that, I think it is a good idea.

Continuing in the vein of whether the Hon Mr Picardo is an interlocutor of truth who should be trusted for anything. I am now talking about him, I consider that I have already disproved the charge against me and now am moving against him. The hon Member said here in his budget address with a straight face, having just accused me of all the things that he has accused me of, he said talking about the Elderly Care Agency, 'yet those who are on the unemployment register can take no comfort from seeing that even in some Government bodies funded by this House, there is a majority of non-national frontier workers. Look for example at the Elderly Care Agency'. Those words in that juxtaposition, is only in the English language capable of one interpretation. Namely, that in the hon Member's view, the majority of employees of the Elderly Care Agency are frontier workers and not British or Gibraltarian. Well I have to tell the hon Member that it is not true. Now, whether the fact that it is not true and that he has said in this House something which demonstrably is not true, whether that makes him a perjurer, whether that makes him an interlocutor of untruth, whether that makes him unreliable, whether that means that if anybody asks him the time and he gives it to him, whoever has asked has got to check the clock to see if he is telling the truth or not, I leave for others to decide. But what he has said in this House is not true, the majority of Elderly Care Agency employees are not non-Gibraltarian or British frontier workers. In case he is interested in the truth, which I doubt, but in case he is interested in the truth, I say I doubt because there is no political use to him so he is probably not interested, if the

information does not allow him to smear the Government to make us look out to be liars it is probably unlikely to be of any use or interest to him. But if he is interested, the Elderly Care Agency has 233 employees of which 84 are non-UK and non-Gibraltarian. In other words, 84 out of 233 is not even in accordance with the hon Member's now infamy for imposition of language, a majority. So I do not know whether he is misleading the House or not and I do not know whether he does it consciously or whether it is statements that are simply based on ignorance. Again, I suspect that it is both. I suspect that he is as ignorant as he is dishonest in his debating style.

In answer, he said, to my Question No. 450 of 2004 the Chief Minister referred him to this corporate product, the exempt status product, said 'we could not be without a product'. Not true, I said no such thing. I said, 'we cannot be without a regime'. I am quoting from the version of Hansard taken from the excellent CD-ROM system from which we can now all search and draw Parliamentary Questions, for which incidentally all credit or much of the credit should go to the Usher of the House, Mr Balban. That is what it says. Now I do not know whether he thinks that everybody, even the House's staff, is conspiring but that is what it says. He immediately rushed to say that is not what Hansard said. He is as quick, he is as inaccurate in his off the cuff remarks as he is in his considered remarks. It is not true that I said we could not be without a product. I said we could not be without a regime. It is not true that Hansard says product, Hansard says regime. I have only looked at Hansard and not looked at anything else. So, again, I cannot say how one would characterise the hon Gentleman for that. When he was talking in relation to the Finance Centre, about the things that the Government should do to be pro-active, he mentioned three items, listing of securities, pensions legislation, so that Gibraltar can become a pensions centre and the whitewash procedure. The hon Member being now once again a partner of the firm Hassans, presumably knows, if not this is an extraordinary coincidence, that all these three are issues which the Government are presently discussing with one partner of Hassans or another.

HON F R PICARDO:

Mr Speaker, on a Point of Order. Certainly I did not know and I will tell the Chief Minister that the pensions issue I took up last year when I was a partner of Hassans, that the listing issue was in the final debate.....

MR SPEAKER:

What is the point of order?

HON F R PICARDO:

The point of order is very simple, that he has imputed to me knowledge of something from my practice, which I do not have. I want to clarify that the pensions issue I took last year, that the listing of securities issue that I took from the last debate in this House when he was Leader of the Opposition, either 1995 or 1994 because in 1995 they actually walked out, and the final issue the whitewash procedure, I have taken before in questions. Therefore, I would be grateful if the Chief Minister could be directed to take back any suggestion that I have brought into political debate an issue that I have determined or found out in my legal practice. That is the point of order. He is imputing to me knowledge of something from one of my partners which is just not correct. I have just told him where I took that information from. It is very clear, there are three instances which I have referred to.

HON CHIEF MINISTER:

Well I believe and many others would not. If he is genuinely inviting me to believe, let me tell him that I do not but if he is inviting me to believe that I have three issues under discussion with the firm of which he is a partner, and that he has coincidentally raised exactly the three issues that I am raising

with his firm and not raised any of the issues in respect of which I am dealing with any other firm, and that that is coincidence and not inside knowledge, then whoever wants to believe the hon Member can do so. I do not.

Therefore the hon Member should be aware that when he suggests things in this House, things that the Government should look into which are things that the Government have in hand with his own firm, that we could be forgiven for thinking that he is simply trying to chalk up things that he knows are in the pipeline to then take credit on the basis of his insider knowledge, when they appear and when they happen. Or perhaps I should express to the firm of which he is partner, concern that all the bilateral business and discussions between the Government and it, may emerge in the future as the political agenda of the Opposition. I do not know how indignant the hon Member feels by what I have just said, but if he had been in this House long enough or interested in politics for long enough, he would have known that what I have just told him pales into insignificance to the constant crucifixion to which I was subjected when I was on the Opposition side of the House, because my firm had dared to accept instructions on behalf of the Spanish pensioners, a firm of which I was a partner.

The Hon Mr Picardo says that there are serious flaws in the economic vision of this Government. He says, 'I fear that the helmsman has no route map for the future and has lost control of the direction in which we now drift'. Let us analyse how much credibility people should apply to the utterances of that particular interlocutor. The drift, the lack of route map, the lost control, the lack of economic vision, actually means record levels of employment, record levels of public investment, GDP growing year in year out, private sector in almost all sectors operating at record or near recent record levels, new global industry leadership in areas like gaming, record international investment levels and confidence in Gibraltar. This is what the hon Member believes paints the picture of serious flaws in economic vision and that the helmsman has no route map for the future and has lost control in the direction in which we now drift. It is just as

well we are drifting, because I do not see where we are going to get the workforce for any more economic growth. What is flawed is not this Government's economic vision but the hon Member's capacity for honest, objective, competent, economic analysis and comment. That is what is flawed. He then goes on to say, 'water, water, everywhere', I do not remember if this was a quote from *The Old Man and the Sea* or from somebody. [Hon Mr Picardo: "The Rime of the Ancient Mariner"] Well he should spend less time reading fiction and more time studying his economic statistics. [Laughter] 'Water, water, everywhere but not a drop to drink', which he thought he would cleverly convert into 'money, money, everywhere but not a cent to spend.' What does he mean not a cent to spend, given that public expenditure is at record levels, and that his other colleagues are accusing us of profligacy in public expenditure, so what is it? This is what happens when the Leader of the Opposition allows the other Members of the Opposition to pontificate on economic analysis. Well, which is it? Is it as the Hon Mr Picardo says, that there is not a cent to spend? Water, water, water not a drop of it to drink. Money, money, everywhere but not a cent to spend. Or is it, as the Leader of the Opposition says, that we are spending too much and that he is worried whether it is sustainable? It cannot be both. It cannot be a case of not a cent to spend when the Hon Mr Picardo speaks, and too much expenditure which the Hon Mr Bossano fears that we cannot sustain. Which is it? Are the Government spending too much, or do they not have enough to spend? Which is it? They have got to make up their minds. They have got to know what they are talking about, they have got to stop treating their audiences like idiots. The hon Member, for the purposes of Hansard, has said that he can think of no reason why I should not be treated like an idiot. So be it.

The hon Mr Picardo then gave the now famous litany of increases. Juvenile delinquency, well I have already told him what I think about that. The cost of electricity and water, I have already told him what we think about that. The cost of doing business with Government, these are all the increases which he thinks will ensnare and bring down the Government. The cost of

doing business with the Government, what increases? Does he mean that businesses only had two social insurance increases instead of five or six or seven that they had under his Government or the first Socialist administration as he likes to call it. Is that what he means by the increased cost of doing business with Government? That we have much fewer tax increases than they imposed on business. Or is it perhaps the fact that we have introduced a lower rate of tax for small businesses, by the introduction of a small company tax rate? Or is it perhaps the fact that we have reduced import duties? Or is it perhaps the fact that we are paying maternity pay on behalf of the companies instead of the companies having to pay it themselves? Or is it the fact that we have given them a discount on commercial rates? Are those the increased costs of doing business with the Government that he thinks will bring the Government down? Or is he referring to the transport fees that we increased, that they increased by even more? The hon Member barely ever says anything which is accurately true. When he talks about increased public debt, what increase? Does he mean the cash increase? Surely he cannot be that unfamiliar with economic principles, such that he believes that a cash increase in absolute terms amounts to an increase in public debt. He cannot be that unfamiliar with it, and if somebody is as unfamiliar with economic concepts as that, he ought not to be pontificating about it, and certainly not undermining peoples credibility on the basis of it. Of course to say that we have increased public debt in a way that will ensnare us is nonsense. Certainly it is true that public debt is in money higher than it was before. But does he not know that the way that public debt is measured by economically literate people, is as a percentage of Gross Domestic Product and as a percentage of Gross Domestic Product it is not rising. But if Martians were to come down to the planet Earth and bring with them the Martian economic doctrines, and thereby if the measure of public debt should become the one that he recommends to this House, let us compare by his economically illiterate methodology, let us compare the relative performances of the two parties in Government.

Between 1988 and 1996 public debt, I am talking about net public debt giving them credit for the Sinking Funds, increased by £45 million or 221 per cent. We have increased public debt from about £65 million to £93 million, £28 million or 43 per cent. So whether he wishes to apply the literate method or the economically illiterate method which layered the roof of his remark, the Government's increase in public debt, which he thinks will ensnare us, is less than they increased public debt by. So much for the reliability and credibility of the hon Member as an interlocutor of anything in this House. We have already alluded to the other infamous increase, the increase in negligence claims. I make no apology for the increase in cocktail party costs, I think in a very large measure, Gibraltar's successful defence of the fight against joint sovereignty and successful turnaround of the economy and its reputation, since we took office in 1996 is due, in no insignificant measure, to our lavish cocktail parties. Never money better spent than in increasing the reputable profile of Gibraltar, as we have done in the United Kingdom since 1996, to drag it up from the depth of the mud into which the Opposition Members had left it when they left office. If after nine years in office and almost half way into our third term of office that is the hon Member's list of increases, that is the best that he can come up with, then I have to say we should go forth to the next elections with huge amounts of confidence, because if the Opposition's criticism of us is limited to that absurd list of increases, about which we are allegedly not proud and which will ensnare us, most of which are not true, most of which are not factual and most of which are simple errors by the hon Member, then I think matters look good for us.

On that basis, except for the new affordable housing in which we have already recognised policy failure, if that is all he thinks the Government have done wrong, on that basis he should not be enthusiastically opposing this Government's policy, as he finished his speech, but applauding the Government because even I can think of more things to criticise the Government about than that. The hon Member says that I should pack my bags because I am a failed Chief Minister. Well, of course, all Chief

Ministers get booted out of office at some time, those that do not run for cover before, the electorate does it for them, but I think it is a little bit premature to describe me as a failed Chief Minister. Let us examine, once again, the record of this failed Chief Minister.

Well if the Opposition Members choose to describe me as a failed Chief Minister, when I demonstrate why I think that it is a silly remark, they cannot then accuse me of having a big ego. If I have got a big ego I cannot be a failed Chief Minister, which is it? Do I have a big ego or am I a failed Chief Minister? *[Interruption]* Oh I see, he thinks I can have an ego notwithstanding that I might not have failed, the hon Member is more ridiculous even than I thought. *[Interruption]* This failed Chief Minister is the first Chief Minister that has taken his party to three electoral victories in a row, each of them with more than 50 per cent of the electoral vote and each of them with his eight candidates occupying the first eight slots on the ballot paper. It has never been done by anybody before except this failed Chief Minister. So we will see, when the Chief Minister's success comes to an end, as surely it must some time. A failed Chief Minister is not one who wins three elections on the trot, by 50 per cent as I have just said, but one who loses a 73 per cent majority in four years. That is a failed Chief Minister. A failed Chief Minister is a Chief Minister, like the ex one that he has sitting next to him, the Leader of the Opposition, who managed defying almost the laws of statistical gravity, to lose a 73 per cent electoral inheritance from his first term, managed to lose it in four years. That is a failed Chief Minister. A failed Chief Minister is one who loses three elections on the trot and promptly announces that he plans to stay for another 12 years. That is a failed Chief Minister. The Opposition are clearly not a Government in waiting. My advice to the Hon Mr Picardo is to pay more attention to the successes of this Chief Minister and less to the failure of his revered leader, because his political future and his political ambition is much more likely to be realised by mimicking some of the achievements and things, and policies of this failed Chief Minister than by mimicking the

style of the failed political leader next to which he sits. I commend the Bill to the House.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have nothing to add.

Question put. Agreed to.

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

The House recessed at 2.40 pm.

The House resumed at 4.00 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 Supplementary Appropriation (2004/2005) Bill 2005;
2. The Appropriation (2005/2006) Bill 2005.

THE SUPPLEMENTARY APPROPRIATION (2004/2005) BILL 2005

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

THE APPROPRIATION (2005/2006) BILL 2005

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

Subheads 1 to 10 – were agreed to and stood part of the Bill.

HEAD 1-B – EMPLOYMENT

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

Subhead 4 – Operational Expenses

HON F R PICARDO:

In subhead 4(e) Industrial Tribunal Expenses there is a forecast outturn for this year of £14,000 on a prediction of £4,000 but we are going back to £4,000 estimate for the next year. I just wonder whether there has been some extraordinary expenditure there which accounts for that extra £10,000. I do not know whether that is perhaps the recording equipment the Tribunal now has, or what it is that has caused that extraordinary £10,000. There also appears to have been a £24,000 increase in the amount estimated for spending (d) Health and Safety

Programme, where the spending has been a total of £25,000 and perhaps that has also been an item of unexpected, extraordinary expenditure. Perhaps we could be told a bit more about that.

HON CHIEF MINISTER:

I am being told, as the hon Member was speaking to me, that in fact there were more Tribunals but in fact it looks as if that forecast outturn figure is over-stated and will probably be written down to about £8,500. Remember that these forecast outturn figures are subject to final late presentation of bills.

HON F R PICARDO:

Meaning Mr Chairman bills, I suppose? That is the only cost that is incurred by the Tribunal as it runs.

HON CHIEF MINISTER:

We do not have the build up of that £14,000 figure. What I am being told is that it will end up at £8,500 and not £14,000. The explanation I am being give for that is that it is probably late payment of bills that have not come in, so the £14,000 must have been what they were expecting to have to pay out by the end of the year. In the event, it appears that they did not receive the bills for all the things due by them and therefore it will not be £14,000. Why it would be £8,500 or £14,000 compared to the £3,400 that it was in 2003/2004, I could not tell the hon Member.

HON DR B LINARES:

Special investigation Cammell Laird is the increase.

HON F R PICARDO:

Is that special investigation the investigation of the Rotterdam, of the grit mountain or both? Or neither?

HON DR B LINARES:

It was a fatal accident that took place.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – Contribution to Gibraltar Development Corporation – Employment and Training

HON J J BOSSANO:

The contribution is £300,000 which is in line with the forecast outturn, when in fact the original estimate was £600,000 in last year's budget and the actual before that was £900,000. In looking at the expenditure side of the equation there seems to be a position where the House approved £120,000 for the Construction Training Centre and the outturn is £34,000, and other projects Government financed took up some of the slack. Can the Chief Minister give an indication of what it was that substituted for the Construction Training Centre? Given that one assumes that on the Construction Training Centre the number of people in it really does not change very much any more. Is it not the case that the sort of numbers coming in are more or less than the ones finishing at the other end? One would have expected that to be fairly steady.

HON DR B LINARES:

I am afraid the department does not offer an explanation of that. We will have to pursue that.

HON J J BOSSANO:

I imagine that part of the reason for the reduction is the fact that this payment from the ESF arrived after the 1st April, where we have got an estimated of £1.7 million. I think in the footnote it showed that £1.2 million is in respect of previous years. Can I ask, was the £700,000 estimated last year in the budget, which materialised as the £23,000 payment, has that failure for the money to arrive within the financial year been covered by the £1.2 million or is that something that is still pending? That is, last year's estimated £700,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The £700,000 estimated at ESF Funds for the year 2004/2005 of which we only received £23,000, the difference there plus is included in the £1.7 million.

HON J J BOSSANO:

Is the £1.2 million then from years prior to 2004/2005?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, we received an amount hovering around £1.1 million in April and that comprised EU Social Funds covering the year 2002/2003, 2003/2004, and 2004/2005. It does include £700,000 which is what I said in the outturn.

HON J J BOSSANO:

The Financial and Development Secretary said it was included in the £1.7 million, but it is also included in the £1.2 million? Okay. Can I ask, in the last line of Appendix B it shows for the first time Accountancy and Professional Fees, are these for the

accounts of the Development Corporation that are done by somebody else? Is that what it is for? It has not been shown before. It is a new item.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think it is a requirement of EU projects independent of whether these are carried out outside the Government's own external audit arrangements and outside any audit arrangements that the department may have. I think the reason why it is quite high in 2004/2005 is because it is an accumulation of doing several years, but now we are up to date we carry on.

HON CHIEF MINISTER:

Can I just add before we move on, for the record, that the hon Member started his round of supplementaries by saying that the House had approved a certain sum and a smaller one was spent. I think he was then talking about the Construction Training Centre.

HON J J BOSSANO:

I do not think I said 'approved' what I said was 'estimated'.

HON CHIEF MINISTER:

This is the only point I was trying to correct. He did say 'we did not approve anything', that is the only point I was trying to correct.

HON J J BOSSANO:

The point is, of course, that if in arriving at this figure the Government expect to need to spend £120,000 on the Construction Training Centre, my point is that given that the Construction Training Centre, from my knowledge of it, has got an input of new year apprentices and an output of third year, it is not a figure that one would expect.....

HON CHIEF MINISTER:

I was not challenging the hon Member's analysis I was just wanting to get him into the habit of thinking that this is not part of the equation, that is all.

Subhead 5 – was agreed to and stood part of the Bill.

HEAD 1-C – TRAINING

Subheads 1 to 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:

In the Theatre Royal we have £60,000 forecast outturn last year, estimated £60,000 2004/2005. Can the Minister explain why it is £66,000 this year? Is it that the rent has increased?

HON C BELTRAN:

This increase reflects a percentage contractual increase with effect from September 2005.

HON S E LINARES:

So it is actually in the rent?

HON C BELTRAN:

The rent.

HON S E LINARES:

So the rent has gone up £6,000?

HON C BELTRAN:

This is part of the contract.

HON S E LINARES:

What formula is it that it is worked out on? I remember that the contract originally was for a three year reviewable rent, was it not? Can the Minister confirm that they are?

HON C BELTRAN:

Yes, it is the formula agreed in the second Schedule of the Agreement. It is included in the second Schedule of the Theatre Royal Agreement.

HON S E LINARES:

Why is it exactly 10 per cent? Is it that that is the formula, that it will go up every three years at the rate of 10 per cent? That was the agreement, this is what I am asking.

HON C BELTRAN:

Yes it is part of the agreement and it is not every three years.

HON S E LINARES:

Can the Minister state to what time lapse it is? Is it three, five?

HON C BELTRAN:

I think it is every fifth anniversary of the date on which the commencement of the term is calculated to get this calculation.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – Heritage Expenses

HON DR J J GARCIA:

Can I ask in relation to the Calpe Conference where the amounts in the forecast outturn is more than double the estimate, is there a reason for that?

HON C BELTRAN:

Yes, I believe this was the previous year's increase was due to invoices from 2003/2004 having been processed in 2004/2005

by DTI. This came from DTI to my department and in the changeover there was some delay in the payment of some of the invoices.

Subhead 5 – was agreed to and stood part of the Bill.

Subhead 6 – Gibraltar Development Corporation Staff Services – was agreed to and stood part of the Bill.

HEAD 2-B – YOUTH AND SPORT

Subheads 1 to 4 – were agreed to and stood part of the Bill.

Subhead 5 – Contribution to Gibraltar Sports and Leisure Authority

HON J J BOSSANO:

The contribution of £1 million, can the Minister say how that compares with the cost for the forecast outturn of the financial year? That is to say, what is going to disappear and be replaced by this £1 million vote. Also, the fact that on page 110 it says on 1st April there are six non-industrials and five industrials. Presumably the salaries and other payments shown in the breakdown provided in Appendix C is for more than six employees, is that correct? Can he say for how many more?

HON C BELTRAN:

Yes it is more than six employees. This reflects an increase in the employees in the Authority, taking into account those employees transferring from the Sports Department as well.

HON J J BOSSANO:

What I am asking is, in arriving at the figure they must know how many employees they are expecting to need to pay in the course of the financial year which produces the £1 million cost.

HON CHIEF MINISTER:

Yes, the full subvention is £1 million. At page 110 there is the expenditure of that and the hon Members will see that there is a small amount of revenue from other sources, that their operating expenditure is £1,011,000 now, that is made up of a payroll element which is described there, which includes, I am just trying from this list to give him the breakdown of what he has asked for, which in other words is how many are existing. How much of that new payroll is existing staff transferring from the Civil Service pay roll.

HON J J BOSSANO:

I asked for two things. I asked how the £1 million that the Sports and Leisure Authority is going to cost in the financial year compares with the amount in the forecast outturn for this year. That is, what is it that disappears on the one hand as a compensating factor for what is happening on the other hand? That is one question. The other question was, if it is more than 11 what are the number of extra employees that are going to be required in the Authority, which is not shown at the moment in the footnote?

HON CHIEF MINISTER:

The first part, his first question ought to be visible from the reduction in the departmental sports vote in the Youth and Sport. In the top half of page 29, he will see £293,000 worth of forecast outturn which is zeroed for the estimate, and further

down he sees the industrial wages and overtime, there is a reduction there from £95,000 to £30,000 on the overtime part because that industrial wages is Sport and Leisure together. So those are the amounts that are saved to this Consolidated Fund head and included in the personal emoluments £748,000 in total, in Appendix G. Now, the second part of his question is how many additional new bodies are there over and above the existing staff. Let me just say, there is a Chief Executive Officer who is the same person, there is an Administration and Finance Manager (by the same person I mean who is an existing Civil Servant), the Chief Executive Officer is Mr Hernandez, the present Head of the Sports Department, the Administration and Finance Manager, who is the HEO, is Mr Rowbottom, the Sports Development and Training Officer who is paid out of the vote at the moment, the Facilities and Resources Manager, which is a new post. So that is a new post. The Office Manager, who is there already, three Duty Managers, who are there already. They are presently the Supervisors who are there already. Assistant Sports Development Officer, that is a new post. Six new Sports Assistants posts. One new Administrative post and I think that all the others are there. So I hope that gives him all the information, albeit in bits and pieces.

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 2-C – BROADCASTING

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

Subhead 3 – Contribution to Gibraltar Broadcasting Corporation

HON J J BOSSANO:

I raised when the Accounts were Tabled in the House for GBC, the question of the deficit in the pension fund that GBC has for its employees and I was told that there were discussions taken on between the Board and the Government, I think the Minister was the one who told me, and given the fact that there is no indication here that we are needing to provide additional funds because of the shortfall in the pension, I would like to know how that is going?

HON CHIEF MINISTER:

The position is that the Government are not going to fund any actuarially calculated shortfalls from time to time, but the Government have indicated to the Board of GBC that we will fund any actual cash shortfalls at any given time.

HON J J BOSSANO:

When someone retires?

HON CHIEF MINISTER:

Yes, so in other words, the Government will always ensure that there is enough money in the fund for pensions to be paid. So everyone will be paid their pensions by the Board but rather than fund, the hon Member will recall that there were two possibilities. One is that markets move up and down delivering actuarial surpluses or deficits at a time that is irrelevant to the demand actual there and then on the fund, and if every time that happens one puts money in the question is does one get it out if the market moves again? Rather than do that we would say, 'look no one will go without their pension for insufficiency of pension funds', but that pension fund has now been closed. So it is not an on-going liability. New employees of GBC go on to

the Provident No. 2 Scheme which is fully funded, is a money purchased scheme not a final salary scheme. So although there is an outstanding commitment by the Government there it is not open-ended, because it stopped with the last but three employees to go in.

HON J J BOSSANO:

It is reducing.

HON CHIEF MINISTER:

Yes it is reducing.

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

HEAD 3 – HOUSING

HEAD 3-A – HOUSING-ADMINISTRATION

Subheads 1 to 5 – were agreed to and stood part of the Bill.

HEAD 3B – HOUSING – BUILDINGS AND WORKS

Subhead 1 – Personal Emoluments

HON J J BOSSANO:

I mentioned in the general principles of the Bill, the grade which is shown here as Chief Executive, which showed £55,000 salary in the preceding estimates book and the same amount in this year, and I questioned whether this was something that there had been no pay review because there was a pending

settlement or the matter was under negotiation. I mentioned it in the general principles.

HON CHIEF MINISTER:

Yes, the Chief Executive post which is currently vacant and has been filled on an acting post, in fact I think it has just been filled a week ago subject to ratification by the PSC the Departmental Board has now made a recommendation. So this job was previously done by Mr Reyes who has now moved on to another job, it was done on an acting basis by somebody else from the department, there has then been a contest for the permanent vacancy, people have applied, the Board has met and a recommendation has been made.

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

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

HEAD 4 – ENVIRONMENT, ROADS AND UTILITIES

HEAD 4-A – ENVIRONMENT

Subhead 1 – Personal Emoluments – was agreed to and stood part of the Bill.

Subhead 2 – Industrial Wages

HON F R PICARDO:

The Minister said that there had been recruitment of environmental monitors I think he said, or an environmental officer, can he indicate to us where that is reflected here? I note that there is a head now environmental monitors set out in Appendix O, perhaps he can indicate to me whether it is reflected here, what the relevant salaries are?

HON F VINET:

The specialist forms part of the department so that would form part of Head 1(a) – Salaries.

HON F R PICARDO:

Yes but it is not set out in the breakdown given in Appendix O of salaries as an environmental specialist. All that is set out there is environmental monitors.

HON CHIEF MINISTER:

I think the reason for that, but I cannot be 100 per cent certain, I think the reason is that that job is graded and is not a separate grade in itself, I think it is graded at EO.

HON F R PICARDO:

So does that mean that it is a graduate entry? A graduate in environmental matters to make him a specialist?

HON F VINET:

Yes, the person is a graduate in environmental matters.

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 – Cemeteries Expenses

HON L A RANDALL:

We heard the Hon Mr Vinet tell us that the refurbishment of the cemetery would take place this year. Could he direct me as to where I may be able to find the capital cost of the refurbishment?

HON F VINET:

That is part of the Improvement & Development Fund submission.

HON L A RANDALL:

There will be no additional recurrent expenditure for the upkeep after it has been refurbished?

HON F VINET:

There may be but these have not been identified at present.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – Natural Environment and Animal Welfare

HON F R PICARDO:

One of the things that I took up in my contribution on the environment, was this question of the works that needed to be done in respect of what might loosely be called ape management. When I see that the figure is fairly static for ape management proper, under Subhead 5(g), I do not see where in the Improvement and Development Fund we are going to be dealing with the cost of either the way that we have proposed or anybody else has proposed the refuse disposal areas which

need to be covered. I would be grateful if the Minister could direct me to that.

HON F VINET:

Works to the refuse collection points are covered in the I & D Fund submissions under subhead 1 – environmental projects.

HON F R PICARDO:

The other issue which I ask about now because it may be more useful to ask about it now than wait until the end, is where we are going to see the expense of the £500,000 to Cammell Laird. I know that this is an environmental issue but I wrote to the Chief Minister about it after the last meeting and I had a reply from the Minister for Trade and the Port. Is it that this is not going to be under this Head and it is going to be dealt with in port or elsewhere?

HON J J HOLLIDAY:

I do not think that a head of expenditure has been identified as yet for that. In fact, we are still in the process of considering various options in respect of the removal of the grit. Therefore, once we have a definite way forward, then obviously we will have to consider the funding of that.

Subhead 5 – was agreed to and stood part of the Bill.

Subheads 6 to 7 – were agreed to and stood part of the Bill.

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 6 – were agreed to and stood part of the Bill.

Subhead 7 – Public Bus Services

HON L A RANDALL:

Can Government explain how the trading deficits or cash flow deficits of the Gibraltar Bus Company were funded during the course of the year and how Government propose to fund them in 2005/2006?

HON F VINET:

The balance is being funded by the company itself.

HON L A RANDALL:

In answer to Question No. 2430 of 2004 I asked whether the issued share capital of £3.7 million was used to fund the capital of the company. That is to say, the purchase, the acquisition of the licences and the buses, to which I got an affirmative answer. So where is the working capital? Where is the working capital to fund the deficit? I say this because in answer to other questions on revenue, my workings show that the revenue generated by the bus company is barely sufficient to fund the cost of salaries, pensions and social insurance.

HON CHIEF MINISTER:

There was originally a subscription of capital which included working capital into the future. I think that is the answer. In other words, the share capital. I do not have the accounts of the bus company here but there was a sum of money in there that

would cover that. In any event, any shortfall would not be a budgetary item but would be for the shareholders of the company to pay and they would be from the company structure, from the company balances. It is nominal. I do not think the plan is for any operating deficit to be met out of the Consolidated Fund.

HON L A RANDALL:

I am surprised at the statement that the Chief Minister has just said, because I have a copy here of Hansard of Question No. 2430 of 2004, when I explicitly asked in a supplementary whether Government could state whether the £1,825,000 above the cost of acquiring the buses was in respect of working capital for the company or in settlement of other things such as the licence acquired. The answer was the latter. In which case there was nothing in working capital out of the £1,825,000.

HON CHIEF MINISTER:

I am speculating because I do not have the financial statements of the bus company here but they could both be right. That might be the explanation for what that money was used for, which does not necessarily mean that they did not get a top up of money from other sources. The point that I am making to the hon Member is that the fact that there is a nominal only provision for public bus service here in Head 4-C (7), does not mean that there is going to be a deficit that has to be covered. There will be a deficit, it will have to be covered and if it is not going to be covered from here then it will have to be covered from the balances in the companies. One of those companies is the shareholder of the bus company. I suspect it is Gibraltar Investment Holdings Ltd is the parent of the Gibraltar Bus Company Ltd, and that company will have to inject more money into it. There is no basis in which the Consolidated Fund can just cover the operating deficit of the bus company unless we vote it a grant to a Government-owned company. I suppose it is

theoretically possible for the House to do that but I imagine that the plans in the Treasury, and I am speculating, that the plans in the Treasury are that whilst there are company balances that the companies will finance the deficits of their own subsidiaries, rather than come to the House and ask for an annual budget grant to cover the subsidy. Those are the only two ways of doing it until the company breaks even.

HON J J BOSSANO:

The reason, I think, why my hon Colleague is asking the question is because last year when we came to this item and it showed £1,000, we were told that was a token because at the beginning of the year we do not know how much money they are going to need. Then when the forecast outturn comes out it will be seen that the amount has gone up by supplementary appropriation during the course of the year. We now see the £1,000 again re-appearing on the surface, one would assume from this and from the explanation given in last year's budget that they have not needed any money in the last financial year and that the £1,000 is here in case they do.

HON CHIEF MINISTER:

That is still the case. In other words, having this token here enables at any stage during the year the Government to decide to fund the subsidy, put it through this token vote and draw from supplementary funding vote for it. So it just leaves that option open. Clearly they did not decide to do that last year. Last year they decided to fund the operating deficits from either the company balances or, which I think is still a possibility, that there was enough surplus share capital left in the bus company to fund the first year's trading loss. It is one or the other, I am not saying which it is, the hon Members can ask questions in the House, we will answer questions about the finances of the bus company in the House but it was not funded, despite the token provision, the mechanism was not used last year and it is

repeated as a mechanism this year without any intention having crystallised as to whether it is going to be used this year or not used again this year.

Subhead 7 – was agreed to and stood part of the Bill.

HEAD 4-D – UTILITIES

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

Subhead 4 – Water – Compensation in lieu of Water Tariff increases

HON L A RANDALL:

The forecast outturn for 2004/2005 in compensation is just above £1.2 million. The estimate for 2005/2006 is £1.5 million, which equates to an increase of approximately 24 per cent. Is there any particular reason why the increase should be so high this year?

HON CHIEF MINISTER:

The hon Member has to bear in mind that under the contract with AquaGib the compensation in lieu of tariff increase is a year in arrears. So the increase in tariffs that we introduced earlier in the year and of which they disapprove, has done nothing to reduce the amount of money that we have got to pay this year in lieu of tariff increases, because this figure that we are estimating is in respect of last year's non increase in tariffs. So we are working a year in arrears. Now next year that figure will fall by the net difference between the increase in their revenue, generated by the tariff increases that we have improved, minus whatever it is that that year's inflation allows them to add to their tariff costs. So there will be some net decrease in this figure next year. Indeed, one of the reasons why we have authorised

the increase of the tariffs is so that this figure will stop growing. Hon Members will see how it has grown over the years, so that it will stop growing and eventually start to decrease or at least stabilise. If we do not increase water tariffs, that figure of compensation in lieu of water tariffs would inexorably rise every year.

HON L A RANDALL:

I am aware that the compensation is paid in arrears, therefore, the compensation now shown in the forecast outturn for 2004/2005 is for 2003/2004. Likewise, the estimate shown for 2005/2006 is for 2004/2005. My question is, there is a 24 per cent increase, is there any specific reason why the increase should be that high?

HON CHIEF MINISTER:

There are labour cost increases, there are fuel increases, the price of fuel has risen. Basically they have a contract which allows them certain tariff increases. If the Government choose not to allow them to increase tariffs by the amount per year that the contract allows them to raise it, then the Government have got to pay this compensation to them in lieu. So it will be a series of factors that build up their operating cost that entitle them to tariff increases that would have produced this extra £200,000 or £300,000, but which we did not allow them so we have got to pay to them in compensation instead.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

In addition to the reasons given by the Chief Minister there is a further reason. It is that the tariff increases that AquaGib introduced on 1st April 2005, in effect the Government accepted that that increase could have taken place earlier and that it just

was not legislated until 1st April. So that also has the effect of driving up the number and accounts for some of the 24 per cent.

HON CHIEF MINISTER:

In other words, the contract entitled them to a trial period before we introduced them and therefore we increased the amount of compensation that they are entitled to.

HON J J BOSSANO:

We have actually gone back and looked at the annual increases in the past. Given that for example, in 2004/2005 it was 6.38 per cent over 2003/2004, which obviously they are always a year in arrears, and which is shown in the preceding page where it has now disappeared from, unless we are talking about the increase being for more than 12 months. Even then as a general rule if the increases have been of the order of 4 per cent or 5 per cent per annum, 24 per cent in one year, even if it is for more than a year, seems unusually large.

HON CHIEF MINISTER:

I have not got the formula here so I cannot tell him what the elements of the bill are. It is carefully checked, it has to be real and it has to be demonstrated and people have to be satisfied about this. The only elements that I can think of that are capable of generating this sort of increase is fuel costs and labour costs. There is no other elements in the price build up formula capable of having anything like this sort of effect. It can only be fuel and labour costs. I do not remember, there was a review of some elements of the company pay some time ago, whether it falls within these figures I cannot say. Fuel is the one that is definitely generating the biggest cost increase in the last 12 months. If the hon Member is interested I suppose we can get that information.

HON J J BOSSANO:

I am sure that the original questioner will be interested in getting the information.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – was agreed to and stood part of the Bill.

HON J J BOSSANO:

There is something I want to ask in respect of the payment of the Electricity Authority. In the actual for 2003/2004 which is shown in page 49, £3.979 million payment to the Water Authority which has been moved from there, in the original which is shown in the Appendix it shows the amount as being in respect of the costs of the wages and so forth, whereas in the original estimate this was divided into two elements. One of which was the shortfall, the deficit in the Electricity Authority. The explanation has a different one. Can the Financial and Development Secretary explain that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We will add in the Approved Estimates a footnote which I think would have helped, which is that actual 2003/2004 also includes £2,837,717 contribution from the Consolidated Fund made in that year. So the labelling is mis-labelled.

HON CHIEF MINISTER:

The cost of the payment for electrical services does not decrease from £3.9 million to the £1. something million, so that should have read £1. something million for 2003/2004 and the

balance is a straightforward contribution from the Consolidated Fund by way of a balancing figure.

HEAD 5 – SOCIAL AND CIVIC AFFAIRS

HEAD 5-A – SOCIAL AND CIVIC AFFAIRS

Subheads 1 to 9 – were agreed to and stood part of the Bill.

Subhead 10 – Contribution to Social Services Agency

HON J J BOSSANO:

One of the elements in that contribution is now the movement of the Workers Hostel to the Agency, is there a particular reason for this? Was the Workers Hostel not, in fact, run by people from the Development Corporation? Is it that it is now run by people from the Social Services Agency?

HON CHIEF MINISTER:

No, it is presently manned by people from Community Projects, but as part of the restructure of Community Projects, one of the proposals is that the hostels go to the Agency with staff. One of the proposals to redistribute the work force of Community Projects to more permanent places. I would say in preparation for that to happen that the expenditure has been crossed out.

Subhead 10 – was agreed to and stood part of the Bill.

Subhead 11 – was agreed to and stood part of the Bill.

HEAD 5-B – PRISON

Subheads 1 to 4 – were agreed to and stood part of the Bill.

Subhead 5 – Expenses on Prisoners

HON F R PICARDO:

Just to confirm, this 5(b) – Maintenance of Prisoners, that is the pocket money paid to prisoners? Maintenance of prisoners, it sounds as if they are getting their oil changed or whatever.

HON CHIEF MINISTER:

I would have thought that it relates to the food which is provided on contract to the Prison by the GHA and paid for, so there ought to be a corresponding item of revenue. The food is now provided from the excellent new kitchen so one can imagine what an improvement in quality of meals prisoners are enjoying.

HON F R PICARDO:

Does that mean that the prisoners also get a plated service with a choice of four dishes? Seeing as he or I are unlikely to find ourselves up there convicted of perjury one of us will have a meal.

HON CHIEF MINISTER:

Well he is more likely to need the meals than me.

Subhead 5 – was agreed to and stood part of the Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Just before we leave Head 5, could I just read into the record. On page 51 under industrial staff, it shows us social services going down from four to zero. In fact, it should be a four in the 2005/2006 column not a zero.

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 7 – were 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:

In relation to Port Security, there was an estimate of £30,000, a forecast outturn of £155,000 and then an estimate of £40,000 for this financial year. Can the Minister explain why that discrepancy is?

HON J J HOLLIDAY:

Yes, the Government have plans of covering part of the port security from the restructure of Community Projects, and

therefore we have made a provision to cover part of the expense until this restructure takes place.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Before we pass on, the policy of listing the contractor at the time the Estimates Book is produced is shown wrongly in that subhead 5(b). It should read Security Express (Gibraltar), just for the record. We will correct it in the approved version. Instead of Detective and Security International it should read Security Express (Gibraltar).

HON F R PICARDO:

Just to clarify, is what is happening here that the forecast outturn shows the cost of doing this commercially and the estimate is what it will cost once we are able to do it with Community Projects?

HON CHIEF MINISTER:

With in-house staff which are presently publicly funded. As there are people being paid a salary in Community Projects who are capable of doing this work, and rather than fund a private contract we want to transfer those people from Community Projects to real jobs.

HON F R PICARDO:

Is that what we were estimating for last year did not happen and we are estimating for this year, and if we do not manage it within this financial year it is going to cost us commercially in the region of £155,000? Is that right?

HON J J HOLLIDAY:

That is correct.

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 – DEPARTMENT OF SHIPPING

Subheads 1 to 5 – were agreed to and stood part of the Bill.

HEAD 6-E – AIRPORT

Subheads 1 to 3 – 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.

HEAD 7 – HEALTH AND CIVIL PROTECTION

HEAD 7-A – HEALTH AND CIVIL CONTINGENCY

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

Subhead 4 – Civil Contingency Planning

HON F R PICARDO:

Does this include provision for the publication of the pamphlet that we have discussed at Question Time in this House?

HON CHIEF MINISTER:

The pamphlet is imminent but I am not sure that it is included there.

Subhead 4 – was agreed to and stood part of the Bill.

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

Subhead 4 – Operational Expenses

HON F R PICARDO:

Does this include any provision for the implementation of any part or parts of the Police and Criminal Evidence Act, which the Government may determine they do wish to implement and which have not yet been spent on, because I know that the cameras are there already, the recording equipment is there already and it may be that in any event there will be no cost here?

HON CHIEF MINISTER:

This makes a specific provision for any expense that may be incurred as a result of whatever we do on PACE.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – was agreed to and stood part of the Bill.

HEAD 8 – ADMINISTRATION AND FINANCE

HEAD 8-A – NO. 6 CONVENT PLACE

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

Subhead 4 – Operational Expenses

HON F R PICARDO:

In subhead 4(e) there was an estimate of £15,000 which has been exceeded by some £40,000, of course it was Tercentenary year last year but we knew that the year before. Is there a particular reason for that?

HON CHIEF MINISTER:

Well it is all these lavish cocktail parties. I do not know how lavish they were, but no provision had been made for the Freedom of the City to the Royal Navy or for the Freedom of the City for Lords Bethell and Hoyle and the receptions and things given for them. So it is basically the additional expenditure is on Freedom of the City to the Royal Navy, Lords Bethell and Hoyle, occasion of the Freedom of the City, and all that amounted to £24,000. So the Hon Dr Garcia can add it to his list of cocktail parties.

Subhead 4 – was agreed to and stood part of the Bill.

Subheads 5 to 13 – were agreed to and stood part of the Bill.

Subhead 14 – Communication and Information Expenses

HON F R PICARDO:

This is a fairly recurring head in a more or less the same amount. What exactly are communication and information expenses?

HON CHIEF MINISTER:

I think it is Government advertisements and Gazettes and things like that. Things that all the newspapers complain they do not get enough of.

Subhead 14 – was agreed to and stood part of the Bill.

Subhead 15 – Private Sector Fees for Legal Advice

HON F R PICARDO:

That amount was again estimated to be £250,000, as happened the year before. It went up to £862,000, it seems to have been going up to £862,000. I recall that last year the Chief Minister told us that it had gone up to £839,000 because there was the extraordinary expense of the State Aid case et cetera. Is that again what is pushing it up there to £862,000?

HON CHIEF MINISTER:

It is cases of that sort but there have been other cases this year in terms of tax reform, as I said in my speech on the Second Reading, EU State Aid, Tax Reform and Sporting Associations litigation. I think that is probably the International Olympic Committee case. This is a vote that very much depends on the amount of litigation and other work the Government farm out to the private sector, but this does not include the Attorney General's expenses in the private sector.

HON F R PICARDO:

Does it include the FIFA litigation or is that exclusively dealt with last year?

HON CHIEF MINISTER:

If there was any expenses last year funded by Government it would be in there.

Subhead 15 – was agreed to and stood part of the Bill.

Subhead 16 – was agreed to and stood part of the Bill.

Subhead 17 – Office Security Services

HON J J BOSSANO:

I take it that KIJY has to do with the car park that.....

HON CHIEF MINISTER:

No that is the security guards at No. 6 Convent Place.

HON J J BOSSANO:

They are provided by the same people, are they?

HON CHIEF MINISTER:

They have always been employed by KIJY. This is another of the things that we will fix with the restructuring. These guys will probably go to the Security Fund in the GDC, covering the Port and places like this, No. 6.

Subhead 17 – was agreed to and stood part of the Bill.

Subheads 18 to 24 – were agreed to and stood part of the Bill.

HEAD 8-B – HUMAN RESOURCES

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 8-C – CIVIL STATUS AND REGISTRATION OFFICE

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 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 4 – were agreed to and stood part of the Bill.

HON CHIEF MINISTER:

Whilst we are on Treasury, the Leader of the Opposition will recall this morning that when he interrupted me in my full flow and asked me to give him some information on the re-composition of the debt, I read from a letter, trying to give him the composition of the balance of the loan. This is a moving feast because the Treasury is engaged in a process of musical chairs to transfer the loan from one area to the other without obviously exceeding the public debt ceiling. I just say it because we happen to be on the Treasury vote, nothing to do with the Committee Stage. What I was reading from is the plan that he is working to but not yet reached, rather than something that he

has already reached. So what I will do is give to the hon Member a breakdown from which he can see what the present position is, literally as at 27th June, which is more up to date than what it was this morning and also corrects something which I told him this morning, because I had not noticed that the heading was 'target' or 'objective' that we were working to and it has not yet been reached. So in fact there is £56.3 million of Government Debentures and there is still £38 million of Bank debts. Since he appears to be particularly interested in how one thing has become another, I am quite happy to give him a breakdown which shows exactly how the Public Debt has over what dates altered. There is a Treasury management exercise to maximise the amount of Government Debentures as opposed to Bank. Now where that will be fixed, whether it will go all the way to the £10 million that was in my brief this morning as the target, or whether the banks will squeal and will stop before £10 million is another matter. But the £10 million was the target and not what he has implemented so far. He is moving towards it.

HON J J BOSSANO:

So, in fact, what we see in the book as the estimated bank debt in terms of the changes in the Public Debt, which shows £43 million on the 31st March 2006 is not what is going to happen and not what is intended to happen. On page 6 it shows the public debt is made up as follows, and it says the forecast for March 2006 was £50 million of debentures and £43 million of loan, and on 1st April 2005 it was £43 million of loans and £50 million of debentures. This is really what sparked off my questions because that did not look right, page 6.

HON CHIEF MINISTER:

At the time that the book was put together we had not appreciated how successful the Government Debentures were going to be, not only because it provides people with an opportunity to invest in a tax free manner, but also provides

more long-term stability in the public debt. So as much of the public debt as we can have occupied, if I could put it that way, by local people which gives them a home for their investment funds.

HON J J BOSSANO:

We support encouraging people to invest in Government debt as opposed to lending the money to somebody else.

Subheads 5 to 8 – were agreed to and stood part of the Bill.

Subhead 9 – Contracted Services

HON J J BOSSANO:

Is the figure for contracted services in the estimate to Land Property Services, is that a real increase or is it because the £100,000 has disappeared as a result of commission on land sales? Is that now part of the £1.480 million? The outturn on the payment to Land Property Services is £1.190 million under subhead 9(a) but there is an amount of £100,000 which is not there this year and was there last year. My question is, is that now subsumed in 9(a) or is the increase in 9(a) a real increase?

HON CHIEF MINISTER:

It includes certain performance targets and also commission entitlement and it is all wrapped up now in their contract fee. When the agreement is signed I do not mind making a statement to the House explaining the basis of it.

Subhead 9 – was agreed to and stood part of the Bill.

Subheads 10 and 11 – were agreed to and stood part of the Bill.

HEAD 8-F – CUSTOMS

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

Subhead 4 – Operational Expenses

HON F R PICARDO:

What is driving down the cost of the Dog Section from £31,000 to £24,000 and now to less than half that to £15,000?

HON CHIEF MINISTER:

The only substantial differences in the build up of the estimate compared to the forecast outturn of this figure, we have got roughly the same amount of food and veterinary expenses, roughly the same amount for incidental expenses and then they have got new dog inspector visits and that has been £13,900 but they bid £4,500 this year. So the reduction seems to be driven by dog inspector visits.

Subhead 4 – was 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 and 2 – were agreed to and stood part of the Bill.

Subhead 3 – Office Expenses

HON F R PICARDO:

There is a discrepancy there at (e) in respect of Office Rent and Service Charges, which one would have thought would have been fairly clear at the beginning of the year unless there has been a particular review. But they go from £65,000 to £80,000 in the forecast outturn and then we go back down to £68,000, I do not know whether that is payment of service charges in dispute for other years.

HON CHIEF MINISTER:

No, the £80,000 in the forecast outturn column includes an element of prior year expenditure from 2003/2004 that was paid in that year. Whether it was deferred rental increase I do not know, and £68,000 does contain the contractual increase over the £65,000 of 2004/2005.

HON F R PICARDO:

Then that would be a whole year's rent.

HON CHIEF MINISTER:

Yes.

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

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – Gibraltar Development Corporation Staff Services

HON J J BOSSANO:

Can I ask for a breakdown of the £265,000 we are being asked to vote this year and an explanation for the 30 per cent increase, or whatever it is?

HON CHIEF MINISTER:

The increase is £51,436 gratuity to the Finance Centre Director and a small element of £6,000 for relocation expense.

HON F R PICARDO:

Is that gratuity, as I understood it Mr Tipping is staying on, is that gratuity in respect of the first contract which has come to an end and now rolls over? Certainly there has been no announcement that Mr Tipping is coming to an end of his position as Finance Centre Director.

HON CHIEF MINISTER:

No indeed, and there is no intention that he should do so and the Government intend to renew his contract.

HON F R PICARDO:

So this amount is a contractual amount of £51,000 on his first contract? Is this amount a contractual amount previously agreed when he first signed up?

HON CHIEF MINISTER:

Yes, all employees on contract terms have a termination gratuity in lieu of pension entitlement. Some officers wait until the end of

service, others prefer to collect it on an annual basis and do. I do not think this is such a case but in the service there are both types.

HON F R PICARDO:

This would be an end of contract gratuity?

HON CHIEF MINISTER:

I would guess so. It must relate to more than one year.

Subhead 5 – was agreed to and stood part of the Bill.

Subhead 6 – 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:

Last year we had this £1,000 put in for security which had been a bid for security officers to be permanently at the Magistrates Court as a result of that incident where I think a jug or a glass had been thrown at the Magistrate. It is now at zero. I think there was broad agreement that that really did not necessitate a security guard. Is that a decision now that nothing is going to be provided for that?

HON CHIEF MINISTER:

They did not spend anything in 2003/2004, there was £1,000 in 2004/2005 which they did not spend and therefore we are not providing it again.

HON F R PICARDO:

No, last year I was told by the Chief Minister that £1,000 had been put in as a new head because there had been a bid from the Magistrates Court as a result of that incident, for consideration.

HON CHIEF MINISTER:

But they did not spend it, there is something in the forecast outturn.

HON F R PICARDO:

No they did not spend it, there was no question of them spending it. There was a bid and we were told at this stage that the Government were going to review during the course of year whether or not they provided those security guards. Does the

zero mean that the Government have decided not to provide them?

HON CHIEF MINISTER:

No the Government have not made a specific decision one way or the other. I am not aware that the Government are considering any longer, it may have been the case at the time of the incident. Normally security at the Magistrates Court is provided by the RGP. I am not aware of any live proposal to provide private security and frankly I would not be in favour of it.

HON F R PICARDO:

Can I just apologise and quickly go back to page 90 on the compensation in legal costs which appears there at the forecast outturn of £127,000, also in relation to law officers and judiciary. Can we get some inkling of what that amount is in respect of, because the private sector prosecution fees are dealt with in 4(b)?

HON CHIEF MINISTER:

I do not know what the cases are but apparently, it is an award of costs against the Government in two legal cases, Schimidzu and Rojas and Brian Berllaque versus HM Attorney General. I think that Rojas is the lady that claimed discrimination on the jury. I think that this is the case that resulted in female juries. The Aida Rojas case, I do not know what the Schimidzu case is about.

Subhead 4 – was agreed to and stood part of the Bill.

HEAD 10 – HOUSE OF ASSEMBLY

Subhead 1 – Personal Emoluments

HON CHIEF MINISTER:

Can I just comment here? I do not know how they get the information because this document is supposed to be confidential, but there was an article in a local daily newspaper, obviously the writer had seen this page, seen the £10,000 in overtime and assumed that it was overtime for the Members of the House. I think the thrust of the article was, the Hon Dr Garcia giggles which suggests he might know what newspaper it was in, and the thrust of this article was why are we Members of the House paying ourselves overtime? Two factors arise. First to clear for the record, that of course this does not relate to overtime of the Elected Members but to overtime of the Clerk and his staff of the House. Secondly, to express surprise that this page should have been available to a journalist, because there is no way that a journalist could know that there is a £10,000 vote for overtime in Head 10, House of Assembly, unless they had seen this page.

HON J J BOSSANO:

It is there every year.

HON CHIEF MINISTER:

Yes, it is there every year. It could be from a previous year. In any case, listeners and readers of Hansard should know that the Government would never vote money to pay Opposition Members overtime.

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

Subheads 2 to 5 – were agreed to and stood part of the Bill.

HEAD 11 – AUDIT OFFICE

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

Subhead 4 – Operational Expenses

HON J J BOSSANO:

In relation to the office cleaning which appears in many heads, does the new rate of minimum wage mean that all these contracts will automatically go up? Is it linked to that?

HON CHIEF MINISTER:

It is not linked to that, I personally do not know at what rate these various companies pay their staff but I assume, hope and expect that they comply with the statutory minimum wage requirement.

HON J J BOSSANO:

The point I am making is that since the Government have announced an increase of £20 per week or whatever, 50p an hour, will that mean that the money we are voting for all these contracts will now have to be adjusted upwards? That is the point.

HON CHIEF MINISTER:

I do not know, I do not think so. I do not think the contracts are that price-sensitive to wages. I suppose eventually it catches up

because next time that they renew they revalue, but I do not think that it is instantaneous.

HON F R PICARDO:

But the Master Cleaning Services contract, we were told last year, was cost plus. Has that one been adjusted?

HON CHIEF MINISTER:

Yes. There are some contracts which are cost plus and Master Service is one of them. I do not think Master Service staff are that close to the statutory minimum wage.

Subhead 4 - was agreed to and stood part of the Bill.

Subhead 5 – Professional Fees – was agreed to and stood part of the Bill.

HEAD 12 – SUPPLEMENTARY PROVISION

Subhead 1(a) – Pay Settlements – was agreed to and stood part of the Bill.

Subhead 1(b) – Supplementary Funding – was agreed to and stood part of the Bill.

Clause 2 – was agreed to and stood part of the Bill.

Clause 3

HEAD 13 – NON-RECURRENT EXPENDITURE – RESERVE

Subhead 1 – Contribution to the Improvement and Development Fund – was agreed to and stood part of the Bill.

Subhead 2 – Exceptional Expenditure

HON J J BOSSANO:

Before we leave the Consolidated Fund, I asked in the general principles on the Second Reading about the £10,000 salary increase. It has not been mentioned.

HON CHIEF MINISTER:

Oh yes. It is two years, those particular grades have not had an uprate since 2002 so that is 2003 and 2004 rates. I did say, as I recall, during that part of the debate, I am not sure it is in Hansard because it might have been across the floor without the microphones on, but I did indicate to him that it was not parity. It is parity in a sense but not with their analogue in the UK. All these guys are related to a particular grade in the UK so whether it is the Judge or the Attorney General, or the Chief Secretary or the Principal Auditor, they are not analogued to judges in the UK but it is parity in the sense that they are analogued to a grade in the UK, and they go to the target rate of that grade.

Subhead 2 – Exceptional Expenditure – was agreed to and stood part of the Bill.

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

Clause 4

IMPROVEMENT AND DEVELOPMENT FUND

HEAD 101 – HOUSING, HEALTH AND SOCIAL AFFAIRS

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

Subhead 3 – Housing Scheme – Waterport Terraces

HON J J BOSSANO:

We were told at one stage that this was being removed because it was being financed through the Residential Property company. Is that still going to happen?

HON CHIEF MINISTER:

Yes, I intimated as much in my debate on the Second Reading, when I said we were estimating the reserves, including company balances, would be at the end of the current financial year and I said it would rise to £53 million or thereabouts depending on how much money was spent from there. So the intention is that this will be done by the property companies but that is there just in case, a mechanism so that there is a head in the Improvement and Development Fund if the Government want to, for example, draw from the Consolidated Fund reserve or something like that.

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

Subheads 4 to 6 – was agreed to and stood part of the Bill.

Subhead 7 – Relocation of Civil Prison

HON L A RANDALL:

Is the £500,000 the total cost of the project, and if not, what is the estimated total cost of the project and may I also have the ready for service bit of the project?

HON CHIEF MINISTER:

Yes, if the hon Member adds the £500,000 to the £1 million in the balance to complete column, that is the estimated total cost of the project. So he can gauge from that, that out of the total of £1.5 million we are expecting to spend £500,000 this year and the balance, so the project is going to straddle the end of the financial year and go into next.

HON L A RANDALL:

As regards the ready for service date of the project?

HON CHIEF MINISTER:

It is an 18 month construction project and I think it starts in the autumn.

Subhead 7 – was agreed to and stood part of the Bill.

Subhead 8 and 9 – were agreed to and stood part of the Bill.

HEAD 102- EDUCATION, SPORT, LEISURE, YOUTH, CULTURE AND HERITAGE

Subhead 1 – Education – Refurbishment of Educational Facilities

HON DR B A LINARES:

There is a typographical error there. Under forecast outturn 2004/2005 the figure of £960,000 which is linked to educational equipment should go down to the St Paul's and St Martin's School developments, and the £100,000 which is now placed there should go up to the Educational Equipment. So this will be corrected in the Approved Estimates.

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

Subheads 2 to 9 – were agreed to and stood part of the Bill.

Subhead 10 – Improvements to Cultural Facilities

HON J J BOSSANO:

How is it that the relocation of the Small Boats which we were told was going to take place, is no longer being provided in the I&D? Is it going to be paid out of somewhere else?

HON CHIEF MINISTER:

I think it is finished or almost ready for occupation. Obviously it has not been funded through here, let me just see if I can find out where it has been funded from. Yes, it is under Head 104 (10) Other Development Projects. Although it has finished, I think it is ready for occupation, it has not been funded from Head 102 because the forecast outturn is nil there for last year. There is an element of expenditure still left to be paid in this financial year, even though the project is nearly finished, but it is in Head 104 (10).

Subhead 10 – was agreed to and stood part of the Bill.

Subhead 11 – was agreed to and stood part of the Bill.

HEAD 103 – ENVIRONMENT, ROADS AND UTILITIES

Subhead 1 – Environment Projects

HON F R PICARDO:

We are told by the Minister for the Environment that that is the Head which covers the cost of doing the necessary works to ensure the ape management problems that we have been referring to. I note that last year we had an estimate of just over £500,000 of which only £300,000 has been spent. Perhaps we could be told what those projects, apart from that one, are and what is estimated that they are going to cost?

HON CHIEF MINISTER:

No, we do not normally reveal the breakdown of the environmental projects unless there are some specific ones. I can tell the hon Member that the cemetery enhancement project is included there and I can tell him that there is a largish provision there for waste collection and street furniture. There is a provision there for parks and playgrounds replacement of equipment, and there is a provision there for the implementation of EU directives and a provision for other environmental projects as an unallocated vote, for the Environmental Department to decide during the year if there is any environmental related thing that they want to do. But there is no more breakdown than that that I can give him.

HON F R PICARDO:

We were told earlier though by the Minister for the Environment that the works that may need to be done in respect of the problems that there were with the apes at Calpe et cetera, were also covered I think he said under that Head.

HON CHIEF MINISTER:

Well, it could be under other environmental projects. He is free to spend the money on whatever he wants. If they choose to spend it on that, I know that he and his mother who lives next to him, will be delighted. I hope they do because it is a huge problem up there and in other similar areas.

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

Subhead 2 – Rock Safety, Coastal Protection and Retaining Walls

HON L A RANDALL:

Can Government confirm that the provision of £1 million does not cater for the re-opening of Dudley Ward Tunnel?

HON CHIEF MINISTER:

Correct, I can confirm that. That project costs much more than this.

Subhead 2 – was agreed to and stood part of the Bill.

Subheads 3 to 5 – were agreed to and stood part of the Bill.

Subhead 6 – Demolition Works

HON F R PICARDO:

What exactly is going to be demolished, what is left of the Theatre or is there anything in particular?

HON CHIEF MINISTER:

What is going to be demolished is structures at Europa Point and garages at Rosia Road.

HON F R PICARDO:

What structures at Europa Point? The only structures I can think of are the old night club, the lighthouse, which I assume is not going to be demolished, or the Nun's Well.

HON CHIEF MINISTER:

The Du Farol building.

HON S E LINARES:

Is it the whole area? Including the shop?

HON CHIEF MINISTER:

It will include that, the Government are in the process of documenting and concluding a transaction to exchange another Government property for both of those properties so it can be demolished and we can beautify the Europa Point area.

HON F R PICARDO:

Can we be given an indication of what is the other property or is that still being negotiated?

HON CHIEF MINISTER:

I would rather not give the hon Members that information, well I am happy to do that privately. I would rather not put that information in the public domain until the transaction has been consummated. It is just a Government property somewhere in the Old Town area. It is in exchange of properties of equivalent assessed value.

HON F R PICARDO:

There is no cash transaction then, just property for property?

Subhead 6 – was agreed to and stood part of the Bill.

Subhead 7 – Road Maintenance and Resurfacing

HON L A RANDALL:

Can Government identify the projects that will be covered by the provision of £1.5 million, and the provision which has been allocated to each individual project?

HON CHIEF MINISTER:

No, I am not willing to do that. What I am willing to tell him is the following, that £750,000 of it is for a highways maintenance term contract; £100,000 is for a road markings and traffic signs term contract; £150,000 is for bus stops and bus route improvements and £250,000 is for a project which begins this

year, which is for the complete replacement of the balustrades and pavements all the way along Europa Road, from the bottom all the way up, South Barracks, down South Barracks all the way along to Lind House.

HON F R PICARDO:

Can the Chief Minister tell us these term contracts, with what entity are the contracts entered into?

HON CHIEF MINISTER:

I do not think they have gone out to tender yet. Whatever it is, it has been a contract or a tender or will be a tender. I do not know if it has happened yet but in any case it would be by tender.

Subhead 7 – was agreed to and stood part of the Bill.

Subhead 8 – Road Construction

HON L A RANDALL:

Can Government say whether the provision of £350,000 is in respect of the road that was going to link Europort Road to Coaling Island?

HON CHIEF MINISTER:

No, that is part of the mid harbour reclamation project. This relates to the Upper Town relief road. In other words, the road that will go between the Prison, round the back of Tankerville House and up to Willis's Road over the corner of the AquaGib water tank, to link Castle Road with Willis's Road and create the loop to enable us to have a one-way system.

HON L A RANDALL:

Then there is no provision for the road.....

HON CHIEF MINISTER:

I have asked the architects to try their hardest to achieve that, I do not know if they have quite managed it yet.

HON L A RANDALL:

Can Government then confirm whether the construction of the road linking Europort Road to Coaling Island will in effect take place?

HON CHIEF MINISTER:

It will take place but not as part of any of these items. It will take place as part of the mid harbour project, which is a project for the reclamation of all the land in the area of the Yacht Club/Rooke Basin, the relocation of the Royal Gibraltar Yacht Club, the relocation of a load of things that are presently there on that reclamation, the skate park. It is a large reclamation project to create large areas of land and which require a lot of relocations and that is where the road will go, as part of that project.

Subhead 8 – was agreed to and stood part of the Bill.

Subhead 9 – Construction of Parking Facilities

HON L A RANDALL:

Can Government identify which are the projects that will be covered by the £4.2 million?

HON CHIEF MINISTER:

Car park at Sandpits and Willis's Road multi-storey car park.

HON J J BOSSANO:

What is going to happen with the car park that there is next to the Regal House, as a result of the development that is planned? Is that going to be reprovided somewhere else?

HON CHIEF MINISTER:

That has now been purchased by the Government, in effect, that will be demolished and carted away and the Government have not yet decided what they are going to offer the people that have long term places rented there. Certainly there will be no multi-storey car park there, that will be torn down and taken away.

HON J J BOSSANO:

The Government do not plan then to produce the same or a similar number of parking spaces somewhere else for that?

HON CHIEF MINISTER:

Well, many, many more than those parking places will be reprovided underneath that site so there will be a period of time during which, either the answer to the question is 'no' or the Government will have to find some other site to temporarily allocate but there will be, during execution phase, a loss of parkings in that area until the underground car park replaces them and more. In the meantime we have got to see where we can reprovide those parking facilities during the execution period. Obviously, Government are going to try and reprovide them somewhere.

HON J J BOSSANO:

Are there any plans to address the question of the employment of the people that are there now?

HON CHIEF MINISTER:

Yes, the people that are there are in effect going to be absorbed. They are in effect already the employees of a Government owned company, KIJY, now belongs to the Government. We purchased it from its previous owners, he may know who they are, but they will be absorbed in whatever arrangements we make in the GDC or anywhere else.

HON F R PICARDO:

Would those parking facilities provided under that building, be public parking?

HON CHIEF MINISTER:

There will be a large measure of public parking and also the parking that needs to be provided in connection with whatever is built there in accordance with planning requirements.

HON F R PICARDO:

Is the old public parking there as large or larger than is provided for at present in the multi-storey?

HON CHIEF MINISTER:

Much larger.

Subhead 9 – was agreed to and stood part of the Bill.

Subheads 10 and 11 – were agreed to and stood part of the Bill.

HEAD 104 – ECONOMIC DEVELOPMENT, TOURISM, PORT AND AIRPORT

Subheads 1 to 12 – were agreed to and stood part of the Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Just before we move onto the new Head, if I could move a small amendment to this Head. The Airlines, Ferry and Hotel Assistance Scheme is shown as disappearing and therefore not requiring any money. I believe it is the case that the hotels will continue to require some money, so what I would propose to do is that we re-introduce as Head 13, Airlines, Ferry and Hotel Assistance Scheme, we put £1,000 in it as a token and we take that £1,000 from Other Development Projects, which is £890,000. So the total stays the same. So Subhead 10 – Other Development Projects, will read: £889,000 and then there will be a new subhead 13 which will be, Airlines, Ferry and Hotel Assistance, which will read £1,000. We estimate the money we may need is about £20,000 and we would obviously cover it through reallocations during the year. So I move that amendment on behalf of the Government.

Subheads 10 and 13, as amended, were agreed to and stood part of the Bill.

HEAD 105 – PUBLIC ADMINISTRATION AND ESSENTIAL SERVICES

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

Subhead 4 – Consolidation and Printing of Laws

HON F R PICARDO:

Will this result in the programme being completed or substantially commenced? I think for the past couple of years we have been stuck with the same level of expenditure.

HON CHIEF MINISTER:

It is up to the department that is running it. I do not know if it is a combination of the Supreme Court and the Legislation Support Unit, it is their project. Certainly the process of consolidating the laws is on-going. I think this is the cost of producing the printed versions, I do not know why it is that they do not seem to need £50,000 because they only ever spend about £8,000. I do not know why they always escape with getting £50,000 again in the estimates. I would have thought this was asking to be slashed.

Subhead 4 – was agreed to and stood part of the Bill.

Subheads 5 to 11 – were agreed to and stood part of the Bill.

Subhead 12 – Gibraltar Broadcasting Corporation Equipment

HON F R PICARDO:

Is that principally the cost of digitalisation that we were told about?

HON CHIEF MINISTER:

I do not think so, I think this is less than they would like to have for normal broadcast networking equipment. I think it may end up having to provide more than this during the year, because this is not just for bits and pieces. Apparently there is now transmission networking equipment which is in need of

changing. So in fact, this item may end up at more than £200,000.

Subhead 12 – was agreed to and stood part of the Bill.

Subhead 13 – Post Office – Capital Works and Equipment – was agreed to and stood part of the Bill.

Clause 4 – was agreed to and stood part of the Bill.

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

The Schedule – Parts 1 to 3 – were agreed to and stood part of the Bill.

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

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 30th June 2005 at 11.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 6.30 pm on Tuesday 28th June 2005.

THURSDAY 30TH JUNE, 2005

The House resumed at 11.35 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

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:

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

BILLS

FIRST AND SECOND READINGS

THE COMPANIES (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Companies Ordinance in order to allow a company which has been struck off under section 267A to be restored to the register, 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 amends section 332(1) of the Companies Ordinance in order to allow a company which has been struck off under section 267A to be restored to the register. Hon Members will be aware that as it presently reads, section

332(1) refers to companies struck off under section 331 but not to companies struck off under section 267A. It also amends section 333 of the Companies Ordinance, which provides that where a company is dissolved, all property and rights in the company are deemed to be *bona vacantia* and come to belong to the Crown. The amendment proposed now in this Bill, ensures that this would be the case subject, and without prejudice, to any order which may be made under sections 330 and 332, namely the restoration of the property to a restored company. Section 330 provides that the court may make an order declaring a dissolution to have been void. Section 332 provides that the Registrar may restore dissolved companies to the register. I would point out to the House that this Bill has been proposed to the Government by Companies House and the Finance Centre who consider that the mechanisms that exist for restoring struck off companies are deficient in that it only refers to one of the sections. Also, that if one is to have a mechanism for restoring dissolved companies, then one has to have a mechanism which is effective for restoration of the property of that company if that has become *bona vacantia*, otherwise one has the silly situation whereby a company is restored but it has lost its property. I think that was just an unintended defect in the original legislation, I do not think anybody has ever been a victim of it, but it was thought appropriate to correct it. 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 have the honour to move that the Committee Stage and Third Reading of the Bill be taken at later date.

THE NATURE PROTECTION (AMENDMENT) ORDINANCE 2005

HON F VINET:

I have the honour to move that a Bill for an Ordinance to amend the Nature Protection Ordinance 1991 to further transpose Council Directive 92/43/EC on the conservation of natural habitats and of wild fauna and flora and Council Directive 79/409/EC on conservation of wild birds, 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 make amendments that extends the level of protection to species that are native or visitors through Europe, as opposed to simply native or visitors to Gibraltar. The Wild Birds and Habitats directives were originally transposed by way of amendments to the Nature Protection Ordinance in 1995. In that amendment, protection was extended to European species that were either native or visitors to Gibraltar. In practical terms, most of the species that ought to have benefited from the directives' protection were actually not protected by legislation, given a small number that were actually found here. The EU has challenged this interpretation of the Wild Bird and Habitats directives and initiated infraction proceedings against the UK, whose interpretation of the directives have been adopted in the 1995 amendment. Whilst the UK initially defended the infraction proceedings they conceded to the Commission's arguments and, in the circumstances, it is right that Gibraltar follow suit. The net effect of the Bill is that protection is afforded to all the

flora and fauna that are listed in the directives, and which are to be found in the European territories of the enlarged European Union. 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.

COMMITTEE STAGE

HON CHIEF MINISTER:

I have the honour to move that the House should now resolve itself into Committee to consider the Nature Protection (Amendment) Bill 2005 clause by clause.

THE NATURE PROTECTION (AMENDMENT) BILL 2005

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

THIRD READING

HON CHIEF MINISTER:

I have the honour to report that the Supplementary Appropriation (2004/2005) Bill 2005; the Appropriation (2005/2006) Bill 2005; and the Nature Protection (Amendment) Bill 2005 have been considered in Committee and agreed to, and I now move that they be read a third time and passed.

Question put.

1. The Supplementary Appropriation (2004/2005) Bill 2005;
2. The Appropriation (2005/2006) Bill 2005;
3. The Nature Protection (Amendment) Bill 2005,

were agreed to and read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Wednesday 27th July 2005, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 11.45 am on Thursday 30th June 2005.

WEDNESDAY 27TH JULY 2005

The House resumed at 10.10 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

GOVERNMENT:

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

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table the Gibraltar Regulatory Authority Annual Report 2004/2005.

Ordered to lie.

The Hon the Minister for Health laid on the Table the Drugs (Misuse) Regulations 2005.

Ordered to lie.

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

1. Consolidated Fund Reallocations – Statement No. 12 of 2004/2005;
2. Consolidated Fund Pay Settlements – Statement No. 13 of 2004/2005;
3. Consolidated Fund Supplementary Funding – Statement No. 14 of 2004/2005;
4. Loan Agreement between the Government of Gibraltar and Barclays Bank PLC.

Ordered to lie.

SUSPENSION OF STANDING ORDERS

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with Government motions.

Question put. Agreed to.

MOTIONS

HON CHIEF MINISTER

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

“That this House approve the making of the International Criminal Tribunal for the former Yugoslavia (Freezing of Funds and Economic Resources of Indictes) (No. 2) Regulations 2005.”

These Regulations which were published in the Gazette on 14th April 2005, give practical effect to Council Regulation EC No. 1763/2004 of 11th October 2004 imposing certain restrictive measures in support of effective implementation of the mandate of the International Tribunal for the former Yugoslavia, which I will call the EC Regulation. The EC Regulation is based on Article 60, Article 301 and Article 308 of the EC Treaty which provide for the Council to take the necessary urgent measures to reduce, in part or completely, economic relations with one or more third countries and on the movement of capital and on payments. The recital to the EC Regulation record that it was adopted in view of the fact that “the widespread and flagrant violation of humanitarian law occurring within the territory of Yugoslavia constituted a threat to international peace and security, and that the establishment as an ad hoc measure of an International Tribunal and the prosecution of persons

responsible for serious violations of international humanitarian law, would contribute to the restoration and maintenance of peace”.

By Article 13, Council Regulation EC No. 1763/2004 came into force on 14th October 2004. The EC Regulation is binding in its entirety and therefore directly applicable in the territory of all the Member States and all territories covered by the EC Treaty, and that of course includes Gibraltar. By Article 11 of the EC Regulation, each Member State is required to determine the sanctions to be imposed, whether provisions of the EC Regulations are infringed. The above Regulations, that is to say the Regulations which we are seeking to approve by motion in this House today, provide for such sanctions in the form of criminal penalties and make other provisions to give practical effect to the EC Regulation, notably in relation to obtaining of information for the purposes of enforcement. The House will be aware, because we have discussed this issue at Question Time, that the Regulation appoints in regulation 2(2), the Chief Secretary of the Government of Gibraltar to be the competent authority in Gibraltar for the purposes of the EC Regulation. The Regulation was signed by His Excellency the Governor and published in the Gazette, as I said earlier, on 14th April 2005 and the enabling legislation, or rather the legislation that enables His Excellency to sign that Regulation, namely the European Communities Ordinance, specifies that the Regulation does not come into force until the date of the Resolution passed in this House approving them. That is the Resolution that we are considering on this motion today. I commend the motion to the House.

Question proposed.

Question put. The motion was passed unanimously.

HON CHIEF MINISTER:

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

“That this House approve the making of the Burma (Freezing of Funds and Economic Resources) (No. 2) Regulations 2005”.

These Regulations published in the Gazette also on 14th April 2005, give practical effect to Council Regulation EC No. 798/2004 of 26th April 2004, renewing the restrictive measures in respect of Burma Myanmar, as amended by Council Regulation EC 1853/2004, which I will call ‘the EC Regulation’. The EC Regulation is based on Article, 60, 301 of the EC Treaty which provide the Council with power to take the necessary urgent measures to reduce in part or complete, the economic relations with one or more third countries and on the movement of capital and on payments. The EC Regulation replaces and extends a previous Regulation imposing restrictions in relation to Burma Myanmar, which was Council Regulation No. 1081/2000. The recitals to the EC Regulation record that it was adopted “in view of the current political situation in Burma, Myanmar, as witnessed by the failure of the military authorities to release Daw Aung San Su Kyri and other members of the National League of Democracy, as well as other political detainees and the failure to allow a genuine and open national convention, and the continuing serious violations of human rights. By Article 16 the Council Regulation came into force on 28th April 2004 and applied from 30th April 2004. By Article 2 the amendments contained in Council Regulation 1853/2004 came into force on 26th October 2004. The EC Regulation is binding in its entirety and directly applicable in all Member States. By Article 30 of the EC Regulation each Member State is required to determine the sanctions to be imposed where the provisions of the EC Regulation are infringed. The above Regulations provide for such sanctions in the form of criminal penalties and make other provisions to give practical effect to the EC Regulation, notably, in relation to the obtaining of information for the purposes of

enforcement. This Regulation similarly contains a provision appointing the Chief Secretary as the competent authority in respect of Gibraltar. I commend the motion to the House.

Question proposed.

Question put. The motion was passed unanimously.

HON CHIEF MINISTER:

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

“That this House resolves that the Honorary Freedom of the City of Gibraltar be conferred upon the Institute of the Blessed Virgin Mary, also known as the Loreto Sisters, in recognition of their dedication to the development of education in Gibraltar over the last 160 years, and as an expression of the regard, esteem and friendship in which the Institute of the Blessed Virgin Mary is held by the people of Gibraltar”.

Mr Speaker, as I say in the motion, the Loreto Sisters as I will call them in their more well-known nomenclature, celebrate later on in Gibraltar this year the 160th anniversary of their arrival in Gibraltar and the Government believe, and hope that the whole House will agree, that it is an appropriate opportunity to confer this honour on them as part of their celebration of that 160th anniversary. The Sisters of the Institute of the Blessed Virgin Mary first arrived in Gibraltar on 13th December 1845. Bishop Hughes had requested Mother Francis Theresa Ball, foundress of the Institute in Ireland, to come to his assistance in the provision of education in Gibraltar. In the first five years the attendance at the school run by the Loreto Sisters rose from 150 to 700 pupils. In 1851 the nuns also opened a fee-paying school which moved to the premises on Europa Road in 1877 and which is their remaining school in Gibraltar known as the

Loreto Convent. Bishop Scandella was so pleased with the education provided by the Loreto nuns for the girls in Gibraltar, that he once stated and I quote, “in few cities whose condition and circumstances are those of Gibraltar, Catholic girls have the means of sanctification and social instruction according to their condition in life which they can command here. I believe I may safely add without exaggeration, that above all, as regards the Convent of Our Lady of Europa we compete with some of the European capitals”.

In 1887 the Loreto Sisters were asked by Bishop Canilla to run St Joseph’s School. The Order continued to play an important role in the education system in Gibraltar up until they were evacuated during the Second World War. After the War there was pressure for the nuns to return to Gibraltar. Nine teaching sisters returned to Gibraltar on 15th December 1945, one hundred years and two days after their first arrival. The Loreto Convent High School, St Francis Xavier, was set up and run by the Loreto Sisters for 25 years. The Loreto Sisters played the major part, not only in the teaching of secondary education to girls in Gibraltar, but also in the teaching of both sexes during the junior stages of education. Indeed, it is no exaggeration, as is reflected in the book recently published ‘Education in Gibraltar’, that the Loreto Sisters formed the mainstay of the educational system of successive generations of girls in particular, but at the junior stages boys and girls in Gibraltar. The Loreto Sisters were instrumental in the setting up of the Comprehensive system of education in Gibraltar. Sister Aoife was the first and much respected Headteacher of Westside, and many Sisters have taught a variety of disciplines at Westside over the years.

Loreto Convent, Europa Road continues the work of the Sisters providing education to 300 plus pupils from age two to twelve, in a caring and supporting environment, where each child is treated as an individual in accordance with the philosophy that governs the Order of Loreto Sisters. Indeed, the mission statement of their school is, ‘We recognise the uniqueness of each child; we undertake to nurture their intellectual, creative

and physical abilities whilst ensuring their emotional and spiritual growth in a caring atmosphere where Catholic values are paramount". Even though the Loreto Sisters remaining presence in Gibraltar is limited, and by using of the word 'limited' I am not wishing to under-estimate their contribution to the community in that respect to the current Loreto schools, this motion is not brought on that basis and for that reason but rather in recognition of the many, many decades, 160 years, during which they have either been the only educational facilities available for girls and boys in Gibraltar, and more recently in post-War years, when they played an integral part in what became a Government fully publicly funded educational system once the educational system in Gibraltar became that. Few institutions have for a longer period of time had a greater impact and effect on more of our citizens, in successive generations, than the Loreto Sisters have had and it is with considerable pleasure that, as I am sure it will be for so many thousands and thousands of Gibraltarian boys and girls who have been educated by them, to commend this motion to the House.

Question proposed.

HON J J BOSSANO:

Mr Speaker, we of course will be supporting the motion, and we welcome the initiative of the Government in bringing it here. The last time I voted as Leader of the Opposition on a motion to grant the Freedom of the City to a religious Order was in 1977 when it was the Christian Brothers. It was then over 100 years of the Christian Brothers. It may be a reflection of the fact that we were not so conscious of the need not to have sex discrimination in those days that we just gave it to the Christian Brothers and forgot about the poor nuns. It has taken us nearly 30 years to catch up with that oversight. The Opposition endorses the sentiments that have been expressed by the Government. The only thing I have got to say is that I think it is long overdue. I cannot imagine why we stopped with the

Christian Brothers and did not go on to do the Loreto Sisters, whose contribution has perhaps been as important and indeed, I think one of the things that there was on the last occasion in 1977 which perhaps is not as true today, is that every single Member of the House, including the Speaker who asked to be able to participate in the debate, actually was an ex pupil of the Christian Brothers. Apparently there were none who were ex pupils of the Loreto Convent then.

Question put. The motion was passed unanimously.

BILLS

FIRST AND SECOND READINGS

THE MEDICAL AND HEALTH (AMENDMENT) ORDINANCE 2005

HON LT-COL E M BRITTO:

I have the honour to move that a Bill for an Ordinance to amend section 61 of the Medical and Health Ordinance 1997, 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, currently drugs may normally only be imported into Gibraltar if a licence has been granted for that

purpose, either under the Medical and Health Ordinance or under the Drugs (Misuse) Ordinance. However, under existing legislation a loophole exists which allows controlled drugs under Schedule 5 of the Drugs (Misuse) Regulations 2005 to be imported without a licence under either Ordinance. This Bill closes the loophole by introducing one small amendment to section 61(2) of the Medical and Health Ordinance. The amendment will ensure that an import licence will be required under the Medical and Health Ordinance, to import Schedule 5 drugs for the purpose of sale in Gibraltar. The Bill will ensure proper control of importation of controlled drugs into Gibraltar and continue the work of the Government's Drug Strategy. I commend the Bill to the House.

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

HON MISS M I MONTEGRIFFO:

Just to say that we have looked at this Bill very closely and we agree with what the Minister has said, and therefore we will be voting in favour.

Question put. Agreed to.

The Bill was read a second time.

HON LT-COL E M BRITTO:

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

Question put. Agreed to.

THE LEGITIMACY (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Legitimacy 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, there are two amendments to the Bill. It revokes section 10 of the existing Legitimacy Ordinance, which is a section which is based on the existence of death duties which no longer apply in Gibraltar, and just for the benefit of the House it reads: "Where a legitimated person or any relative of a legitimated person takes any interest in real or personal property, any succession, legacy or other duty which becomes leviable after the date of legitimation shall be payable at the same rate as if the legitimated person had been born legitimate." Of course, that is now a false premise because since that section was drafted many decades ago, we have abolished the death duty. The second amendment is to the Schedule in paragraph 1 of the Schedule, by substituting the powers of the Governor dealing with the re-registration of births of legitimated persons whose birth is already registered under the Births and Deaths (Registration) Ordinance, and give those powers instead to the Head of the Civil Status and Registration Office. The Government believe it makes more sense for these powers to be held by the Head of the Civil Status and Registration, who in fact exercises these powers and administers this legislation on a day to day basis, and of course the House is aware that

legitimacy is specifically a defined domestic matter. 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 later today.

Question put. Agreed to.

THE TERRORISM ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to make provision for the purpose of implementing the Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism; and for connected purposes, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill transposes into the law of Gibraltar a European Union Justice and Home Affairs Council Framework Decision No. 2002/475 on combating terrorism. The objective of the Bill is to establish minimum rules throughout the EC relating to the constituent elements and penalties in the field of terrorist offences. Clause 2 is the definition clause and contains most of the definitions of terms used throughout the Bill, but the term "terrorism" is actually defined in clause 3. Terrorism is defined as the commission of an action listed in sub-clause (2) of that clause, where the use or threat of action is designed to: (1) intimidate the public or a section of the public; (2) compel the Government to act in a certain way, which I hope does not apply to the Opposition Members to confidently try to cause the Government to act in a different way; and (3) to destabilise or destroy the Government or the economic structure of Gibraltar. The definition of "terrorist action" includes action outside Gibraltar. Clause 4 defines terrorist property as money or other property which is likely to be used for the purposes of terrorism, proceeds of the commission of acts of terrorism and proceeds of acts carried out for the purposes of terrorism. The proceeds of an act include any profit in which wholly or partly, directly or indirectly, represent the proceeds of the act including payments or other rewards in connection with its commission. Part II of the Bill provides for offences relating to financing of terrorism and such like. The offences include raising funds for terrorism, clause 5; use and possession of money or other property for terrorism, clause 6; arranging funds for terrorism, clause 7; and arrangement for retention or control of terrorist property, clause 8. A defence is provided for persons who cooperate with the police in certain circumstances and that is in clause 9. Clause 10 provides for penalties for the offences and clauses 11 and 12 empower the court to make forfeiture orders in respect of terrorist property. The court may also make an order restraining

a person from dealing with property in respect of which a forfeiture order has or could be made, that is in clauses 13 and 14. Part III of the Bill sets out the offences related to prescribed organisations. Clause 15 makes it an offence to belong or profess to belong to a prescribed organisation and provides for a defence in certain circumstances. Clause 16 makes it an offence to invite support for a prescribed organisation or to manage, arrange or assist in arranging, or managing a meeting which supports a prescribed organisation. It also makes it an offence to address a meeting with the purpose of encouraging support for such an organisation. Clause 17 makes it an offence to wear items of clothing or display an article in a way which arouses reasonable suspicion that a person is a member or supporter of a prescribed organisation. Part IV of the Bill sets out further terrorist offences. These include: providing or receiving weapons training, save that it will be a defence to show that the provision or receipt of such training was wholly for a purpose other than assisting, preparing for or participating in terrorism, and that is in clause 18; directing a terrorist organisation, clause 19; possessing an article giving rise to reasonable circumstances, that the possession is for the purposes of terrorism, clause 20; or collecting certain types of information, clause 21. It also makes it an offence to take action using noxious substances or things to cause harm or intimidate in certain circumstances, clause 22; or to commit a hoax with that intention, clause 23. Hostage taking will also be an offence under this Bill in certain aggravated circumstances and that is provided for in clause 24. Part V of the Bill provides for extra-territorial jurisdiction in respect of terrorist offences. Clauses 25 and 26 provide that certain acts will be offences. That is to say, murder, wounding with intent, poisoning, causing explosions, and offences under the Weapons of Mass Destruction Ordinance, whether committed within or outside Gibraltar. Clause 27 provides extra-territorial jurisdiction in respect of offences in clauses 5 to 8 of the Bill. That is to say, offences relating to funding of terrorism and terrorist property. Clause 28 provides for extra-territorial jurisdiction for acts of terrorism committed abroad by Gibraltarians or residents of Gibraltar. Clause 29 provides that offences under Part V shall be

extraditable offences, and clause 30 provides for corporate liability.

Finally, clause 31 states that the proceedings for an offence under this Ordinance if it is passed, shall not be instituted without the consent of the Attorney General. I commend the Bill to the House, but I should comment before I do so, that in establishing minimum rules this is in effect the harmonisation at a minimum standard of rules, the view taken in the United Kingdom and indeed in several other Member States, is that actually it does not add a huge amount to what our laws already provide. Almost all of these things are already a breach of one or other of our existing framework of criminal laws, but it is all put together in this harmonised standardised package so that everybody in Europe now articulates the definition of the offence, and in the same language prescribes penalties which are harmonised to a minimum extent, rather than everybody dealing with terrorist offences under their own criminal laws, most of which are already covered, and it is certainly true of the United Kingdom and Gibraltar, that almost all of these offences were already covered in our criminal law system. I commend the Bill to the House.

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

HON J J BOSSANO:

We shall be voting in favour of the Bill and I note that, in fact, what we are doing today is as the Chief Minister has explained, putting together in one Bill something which is not being put there for the first time because much of it is already covered by offences in our statutes. There is something that we are not clear about in terms of the precise drafting of the definitions at the beginning of what constitutes the offences of terrorism, because they do not follow exactly what the directive says and therefore one of the things that I think the House will want to know, is whether in fact the Government as a matter of

Government policy have decided not to do exactly what the wording of the directive says but in fact to go beyond implementing the directive, which is what the Explanatory Memorandum does, because they think it is desirable or necessary. I must say that does not quite sit with the fact that we have just been told that the object of the exercise is that there should be a uniform piece of legislation which is virtually word for word the same in all the Member States. It may not have any significance but it seems to me that if the law says that the offence should be that the Member State should take the necessary measures, and that is what it says in Article 1, to make sure that persons do not engage in activities aimed with unduly compelling the Government to perform or abstain from performing any act, and we do not say that it should be 'unduly', we just put 'compel', is there any particular reason why we drop the adjective which seems to qualify the word? If it is that the directive requires us to do something to prevent people seriously destabilising the economic or social structure, why do we drop the word 'seriously' and leave it at destabilising? Is it a deliberate decision of the Government that this should be so, or is there some other explanation? I think the same is true when we come to sub-section (2) of section 3, which talks about the actions that have been taken which, again, are listed in Article 1 of the directive but we do not appear to use the same wordings or indeed to have the same things. In some cases we have things that they do not have there and therefore, given that what we are supposed to be doing really is implementing the Framework Decision and nothing more, we would like an explanation of the differences that do exist.

HON CHIEF MINISTER:

Before I answer the Leader of the Opposition's question, can I just say something that I omitted to say in my initial address, that is that there is what I assume must be an error of drafting which I will look into before the Committee Stage, in that I notice that section 25(5) of the Bill, on page 473, suggests that those persons who are lucky enough to hold office under the Crown

cannot commit the offence of inciting terrorism outside of Gibraltar, which cannot be the intention. It says, "nothing in this section imposes criminal liability on any person acting on behalf of the Crown". That by itself would be a pretty controversial statement but "or holding office under the Crown" includes several thousand, for example, Civil Servants in Gibraltar who apparently are free to incite the commission of terrorism offences outside. I cannot believe that that is the intention. It is an absurd result and therefore I give notice of almost certain intention to bring an amendment to that sub-section.

If I could just address the Leader of the Opposition's points. The answer is yes. This is a Framework Decision which does not purport to explain in detail what has to be done. That is in the nature of a Framework Decision and therefore there is a lot of scope for how one does it, and it is true that as a matter of policy we have chosen, not as a matter of policy in the sense of considered but in the matter of policy absent the Gibraltar's Governments desire to do it any other way, the drafting has been done on the basis of following the UK legislation. These are areas with a huge international dimension and we just saw no advantage in departing from what is UK language, which may fall to be comfortably interpreted by UK courts hopefully than by Gibraltar courts, and we simply think that there is no huge value in having nuances that make UK jurisprudence on this not directly applicable to Gibraltar. But we could have added or not subtracted any one of the adjectives that he has alluded to, and indeed there may be more, those may just have been examples that he gave from 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 this Bill be taken later today.

Question put. Agreed to.

THE MARKET ABUSE ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to implement into the law of Gibraltar Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse), 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 will give notice, I do not know if hon Members have it, of a very small amendment in due course to section 37(4) of the Bill to insert the fact that a constable, which is what it now says, or any other person may be authorised by a warrant to enter premises. I will explain that to hon Members when we come to that section.

The directive aims to create a European framework for the description, detection and punishment of market abuse. This Bill prohibits insider dealing, that is, where insiders use or seek to use certain information which is not publicly available to their own advantage or the advantage of others. Market manipulation, that is, where someone tries to distort the price of financial instruments or effect transactions or orders to trade, or disseminate information, in a manner which gives or is likely to give false or misleading signals about financial instruments. It

also includes preventative measures aimed at making market abuse less likely to occur. Clause 1 provides for citation and commencement. Clause 2 provides for certain definitions. Most of these definitions flow from the definitions contained in the directive and the relevant implementing measures. Sub-clauses (4) and (5) provide that the Bill shall apply to any security admitted to trading on a regulated market in at least one EEA State, or for which a request for admission to trading on such a market has been made, irrespective of whether or not the transaction itself actually takes place on that market and that the provisions in relation to insider dealing and market manipulation shall also apply to any related investment not admitted to trading on a regulated market in an EEA State. Clause 3 sets out the meaning of insiders. Clause 4 defines inside information. It is certain information which is not publicly available and which would, if generally available, have a significant effect on prices or which users of markets on which derivatives on commodities are traded, would expect to receive. Clause 5 deals with what is meant by market abuse, and it is dealing or attempting to deal in a security on the basis of inside information; the unauthorised disclosure of inside information; transactions or orders to trade under dissemination of information which might create a misleading impression in relation to financial information, or which might distort a financial market; and transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance. Clause 6 contains exceptions to clause 5. Behaviour does not amount to market abuse if it conforms with the rule that includes a provision to the effect that behaviour conforming to that rule does not amount to market abuse. In addition, behaviour is not market abuse if it is done by a public authority in pursuit of certain monetary policies. This ensures that monetary exchange rates and public debt management policies are not impeded by the directive. Clause 6 also acknowledges the safe harbour principle which is contained in Regulation 2273/2003, namely, that legitimate buy-back and stabilisation activities do not amount to insider dealing, that is, a safe harbour is provided for such activities. Clause 7 sets up the geographical scope of the Bill. Behaviour is to be taken into account for the purpose of the Bill only if it occurs in

Gibraltar. The scope of the regime created by the Bill includes behaviour that happened in Gibraltar in respect of financial instruments admitted to trading on regulated markets based outside Gibraltar in another EEA country. Clause 8 provides that a contravention of the Bill is actionable as a breach of statutory duty at the suit of a person who suffers loss as a result of the contravention. Clause 9 provides that a person is guilty of an offence where he contravenes the provisions of the Bill. Schedule 1 contains a provision enabling the Minister to create special defences by way of amendment to that Schedule. Clause 10 requires the prompt and fair disclosure of information to the public concerning new developments relevant to the prospects of companies who issue securities. It also details the manner in which such disclosures should be made. Clause 11 provides that an issuer may delay the disclosure of information under Clause 10, so as not to prejudice his legitimate interests, provided that this would not mislead the public and provided that the information is kept confidential. This clause sets up a non-exhaustive list of legitimate interests. Clause 12 ensures that inside information is properly controlled by requiring lists to be kept of persons who have access to such information. Clause 13 ensures that investors have information about the trading and the shares of companies by the senior management, and those closely associated with them of those companies. Clause 14 ensures that possible incidents of insider dealing are reported to the competent authority. Clause 15 provides that Part III, that is public disclosure of information, shall not apply to issuers who have not requested or approved admission of their securities to trading on a regulated market. Clause 16 provides the competent authority with the power to carry out investigations into market abuse and to gather information. This clause specifically states that the competent authority may seek the assistance of other statutory bodies and EEA Authorities. The competent authority must report the results of any investigation to the Minister and to the Attorney General and may, in certain circumstances, disclose to the public any sanctions that he imposes. Clause 17 sets out penalties where a person fails to comply with any information gathering requirement under clause 16. Clause 18 provides a regime of restriction of how

information so gathered by the competent authority can be disclosed. Clause 19 sets out the limited circumstances in which the competent authority may disclose information gathered under the Bill. Clause 20 details the behaviour which is to be taken into account in an examination of the market by the competent authority and by market participants. The behaviour listed in clause 20 is non-exhaustive and should not necessarily be deemed in itself to constitute market abuse. Clause 21 sets up the consultation procedure that should be followed by the competent authority when it is reviewing the market and deciding whether or not a market practice is acceptable. There is a requirement for the competent authority to consult appropriate relevant bodies and it must publish its decisions. Clause 22 provides that the competent authority must cooperate with other EEA Authorities for the purposes of carrying out their functions and duties under the directive. Clause 23 provides that Part VI applies to recommendations as to buying, selling, subscribing for or underwriting of securities that are produced or disseminated by persons whose professional business is the media. In other words, this area of the Bill deals with rules that apply to what laymen might call 'tipsters', people who make investment recommendations in the general media. Clauses 24 to 29 therefore, contain provisions relating to the disclosure of the identity of, in a nutshell, the tipsters, the producers of the fair presentation of and the disclosure of interests in investments which they recommend, and for the adaptation so as to avoid disproportionate compliance in certain instances of non-written recommendations, that is, those broadcast on television or radio or a website. Clauses 30 to 32 contain similar provisions in relation to persons disseminating investment recommendations that have been produced by a third party, in particular, in cases where the recommendation has been altered or summarised by the person actually making them. Clause 33 contains provisions in relation to news reporting on investment recommendations. Clause 36 provides that the Attorney General may institute any proceedings, whether civil or criminal, in respect of a contravention of the Bill. Clause 37 provides for the power to enter premises under a warrant and take possession of certain

documents. Here is where I shall be moving at the Committee Stage an amendment, which says a warrant under this section shall authorise, at the moment it simply says 'the competent authority'. It will read, 'the competent authority or other person authorised by the competent authority, to be named in a warrant to be issued by a court'. [Hon F R Picardo: Sometimes one has to exclude the ones.....] Personally. Well, that is another good reason for the amendment. Let me hasten to add, in answer to that observation by the hon Member, that it is of course the Minister's intention to appoint somebody else to be the competent authority under this. The hon Members may have noticed that under the existing Insider Dealing Ordinance which already exists, and of which this is an uprating, the competent authority actually is the Commissioner of Police. There is an increasing tendency for administration of this type of legislation to be vested in the regulatory authorities of the Financial Services industry, and it seems entirely probable that we shall exercise the power to actually designate the Financial Services Commission as opposed to the Police in this regard. Clause 38 makes provisions for offences by bodies corporate, partnerships and unincorporated associations. Clause 39 makes provisions with regard to jurisdictions and procedure in respect of offences. Clause 40 makes provisions for sanction for prosecution by the Attorney General. Clause 41 makes provision in relation to the powers of the authority in respect of authorised persons and licensees. Clause 42 provides the Minister, that is the Minister with responsibility for Financial Services, that is presently me, with the power to make regulations and orders under the Ordinance. Clause 43 repeals the existing Insider Dealing Ordinance 1998, which is consolidated and upgraded by the implementation of subsequent directives in this single Bill. Subject to the amendment that I will move, I commend the Bill to the House.

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

HON F R PICARDO:

Very briefly, just to point out that there are actually in sections 7 and 34, two sections that are titled in the same way. Both of them are titled 'territorial scope'. The first one generally deals with the territorial scope of the Bill, which simply relates to actions done in Gibraltar. The second one deals with the territorial scope of the part which I think actually does the same thing, and simply says only if they are done from Gibraltar. So perhaps that might usefully be looked at to see at least whether we could change the heading of the second one. Perhaps simply if only to add territorial scope of this part. I do not think it would be proper to have two sections at the very least with the same heading. If they are both doing the same thing we may be able to dispense with one of them. Secondly, in section 37 where the Chief Minister has just taken us, I note what he tells us about the competent authority and why it is being taken into the realm of the Minister for Financial Services. It is something that we will see is also done in the Bills that we are about to deal with and not an issue that I have anything to say about, but I am concerned to see that a warrant would be issued, on oath given by and on behalf of the Minister it says there, not just the competent authority, the Minister which is the Minister for Financial Services or the competent authority. That would mean both the same individual, the Minister or the competent authority but the competent authority could mean any party to whom the Minister has delegated the powers. So that could mean anybody in the Financial Services Commission if it were otherwise, but it is still.....

HON CHIEF MINISTER:

We are clear that the Minister is not the competent authority. Under the definition of 'competent authority' the competent authority means such person or body as the Minister may by regulation appoint. In no case the Minister, and I suppose technically, I could exercise my power of appointment to appoint myself but that is not the intention. In other words, it does not

say as I think I might have heard him say as an aside before, that the competent authority is the Minister or such other person as he appoints. It is not. It is only such person as he appoints not the Minister himself.

HON F R PICARDO:

In fact, he did hear me say that. I confuse this Bill with the one we are about to deal with, where the Minister is the competent authority, he is absolutely right. My concern in this particular instance is this, it is that the Minister, whether it be the Chief Minister who can put evidence on oath, he is presently the Minister for Financial Services, or any of the other Ministers, I do not want to put it higher than perhaps fairly uncomfortable or inelegant for a Minister to be put into a position where he has to go on oath to obtain a warrant, and therefore perhaps subject himself to cross examination. It is not that he has to because somebody else can do it in the competent authority, but I think it is the first time that we see a Minister being the party that would go on oath potentially to obtain the warrant. I do not know that we would want to put our Ministers, however much I might enjoy the application to cross-examine, I do not think we want to put our Ministers in the position where they are subject to potential cross-examination in such eventualities, when it is perfectly possible for it to be somebody in the competent authority.

HON CHIEF MINISTER:

I will give consideration between now and the Committee Stage to the point that the hon Member makes. Can I just point out to him before giving it such thought that there is nothing hugely new about Ministers putting themselves in a position where they may find themselves having to give evidence on oath in court. Wherever the Minister is the licensing authority, for example, which is something that happens quite a lot in our legislation and also in the United Kingdom legislation, the Minister is exposed in judicial review proceedings or any other form of proceedings, to

action which will require him to go along to court on oath and account for his behaviour. So the concept of Ministers being cross-examined on oath and hopefully not being found to be as perjurious as the hon Member suggested I systematically was during his budget address, is I think not in itself a novelty. But I will give some consideration to the slightly separate point whether different considerations apply in relation to applications for warrants. I cannot think of anything as I speak but I think it is a point worth thinking about and I will. I will let the hon Member know at Committee Stage what view we take of that.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE LEGAL AID AND ASSISTANCE (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Legal Aid and Assistance Ordinance to make special provision for Group Litigation, be read a first time.

Question put. Agreed to.

HON CHIEF MINISTER:

Mr Speaker, with the leave of the House, I would propose not to take the further stages of this Bill this morning but rather to do so this afternoon, on the basis that a point has been made to me last night that may require amendment, which I would like further time to consider. So if we move on to the next Bill we will return to the rest of the stages of this Bill after the lunch adjournment.

THE PROSPECTUSES ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003, on the prospectus to be published when securities are offered to the public or admitted to trading; and matters connected thereto, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, in a nutshell, this Bill seeks firstly to harmonise issues relating to the content and manner of issue of prospectuses, and having done so, to then allow for passporting of prospectuses from the country in which they are issued and approved to any other country of the EEA, without the prospectus having to be further approved in that country. So this is in a sense a passporting type piece of legislation dealing with the usability of prospectuses across the community and

across the EEA. Thus, the Bill aims to improve market efficiency through the issue of a single approved prospectus that will enable issuers to raise capital across the EU without further approval or administrative arrangements. In addition, it aims to enhance investor protection by requiring high standards of disclosure for issues of securities that are offered to the public or admitted to trading on a regulated market in the EU. The Bill determines the circumstances in which a prospectus must be produced and the manner in which a prospectus needs to be approved by the competent authority. Taking the provisions of the Bill in turn, clause 1 provides for citation; clause 2 provides for interpretation and the usual definitions, and they flow from the definitions contained in Article 2 of the Prospectus Directive. Clause 3 provides that issuers of securities who are admitted to trading on a regulated market shall at least annually provide a document that contains or refers to all information that they have published or made available to the public over the preceding 12 months, in one or more Member State or third country in compliance with their obligations under community and national laws and rules. The document must be filed with the competent authority. Clause 4 sets out the scope of the Bill. It provides that a prospectus will need to be filed for approval with the competent authority and published in one or two circumstances. When there is an offer of securities to the public in Gibraltar, and when an application for admission to trading on a regulated market is made. Sub-clause (2) lists the financial instruments in respect of which the Bill does not apply. Clause 5 governs the situation where prospectuses are drawn up as separate documents. Where this is the case, there are rules which set out what the prospectus must comprise. In other words, when it is not drawn up as a separate document and there is a list given there of what form a prospectus can take as part of another document. Clause 6 provides for the validity and approval of a prospectus. It provides for exemptions from the obligation to publish a prospectus for certain types of offer, and it sets out there in clause 6 the types of offer for which there is no need to publish a prospectus. For example, the first item on the list is where the offer of securities is addressed only to qualified investors. The hon Members will see that the definition of

qualified investor is mainly Governmental bodies and financial services institutions, where they are acting as an investor rather than as an issuer themselves. There is a list there of such like. Clause 7 provides for the application for approval. Such applications must be made to the competent authority in such manner as the competent authority may require. It sets up the circumstances in which the competent authority may not approve a prospectus and details the information which a prospectus must contain. Clause 8 deals with supplementary prospectuses. Particularly it provides that a supplementary prospectus must be filed with the competent authority in a significant new factor, mistake or inaccuracy in the information included in the prospectus which is capable of affecting the assessment of the security arises between the time the prospectus is approved and the final closing of the offer or commencement of trading to which it relates. Clause 9 sets up the circumstances in which the competent authority may authorise the omission of information from a prospectus, and hon Members will see there the list. For example, when disclosure would be contrary to the public interest, where disclosure would be seriously detrimental to the issuer, and when it is only of minor importance and unlikely to influence that sort of thing. Clause 10 sets out the manner in which the competent authority must notify an applicant of its decision on an application for approval of a prospectus. This clause also contains the principle that the competent authority of the home Member State, a term which is defined including Gibraltar, may transfer the proposal of a prospectus to the competent authority of another Member State. Clauses 11 and 12 deal with the concept that the competent authority of a single Member State is responsible for approval of a prospectus. Identification of the responsible Member State is determined by who is the home or host Member State. Once a prospectus has been approved, it provides the issuer with the ability to access markets in other EU Member States using the same prospectus without other competent authorities imposing additional obligations. Clause 11 provides that the Gibraltar competent authority need not approve a prospectus where it has been approved by a competent authority in another Member State. In other words,

the reverse in respect of inward passporting. Clause 12 provides that a prospectus approved in Gibraltar is valid in any host State provided that each host State is notified in accordance with the provisions of this clause, that is to say, outgoing passporting. Clause 13 provides for the publication of a prospectus. A prospectus is deemed to be available to the public when it has been published in one of the following ways, and there is a list there, printed form, free of charge to the public, insertion in a newspaper, in electronic form on the issuer's website, in electronic form in the website of the regulated market where it is going to be listed, and in electronic form in the website of the competent authority. Clause 14 provides that a prospectus must be drawn up in English, where an offer to the public is made or admission to trading on a regulated market is sought in Gibraltar. Where an offer to the public is made or admission to trade is sought in a Member State other than Gibraltar, and the prospectus has been approved in a language other than English, the competent authority may require that the prospectus be translated into English. Clause 15 sets up the powers of the competent authority. Clause 16 provides that the competent authority may, until 31st December 2011, delegate certain tasks to such persons as it deems appropriate, and that is in the directive itself. Clause 17 sets up the principles that must be observed in relation to advertisements of a prospectus. Clause 18 provides that a person responsible for the prospectus shall be liable to pay compensation to a person who has acquired securities to which a prospectus applies, and has suffered loss as a result of any false or misleading particulars in the prospectus. Clause 19 provides that the competent authority may impose a financial penalty on certain persons, where such persons have contravened certain of the provisions of the Bill. Clause 20 provides the power for the competent authority to carry out investigations in relation to the matters relating to prospectuses. Clause 21 provides for the power for the competent authority to set fees, and hon Members will see that that is one of the amendments that I intend to propose, and that is that it is the Minister that should set fees and not the competent authority, to make it consistent with all other financial services legislation

where fees are set by the Government and not by the independent regulator. Clause 22 provides for exemption from liability in damages for anything done or omitted in the discharge of the competent authority's functions. Clause 23 provides that the competent authority must cooperate with other EEA authorities for the purposes of carrying out their functions and duties under the Prospectus Ordinance, and sets out the circumstances in which the competent authority may disclose information gathered under the Bill. Clause 24 provides for appeals to the Supreme Court where a person is aggrieved by a decision of the competent authority. Clause 25 provides for the powers for a constable or person authorised by the competent authority to enter premises under a warrant in order to gather certain information. Clause 26 provides for offences. Clause 27 provides the Minister with regulation-making powers, and the first Schedule makes certain consequential amendments. Schedule 2 deals with the person who shall be responsible for information given in a prospectus. Schedule 3 expands upon clause 18. In essence, it sets out the circumstances in which a person responsible for publishing a prospectus is not liable to pay compensation to an aggrieved investor. Schedule 4 details certain exemptions from the obligation to publish a prospectus. Schedule 5 sets up the summary contents of certain miscellaneous forms. Schedule 6 sets out the definition of regulated market contained in Directive 93/22/EC.

I would just point out to the hon Members the areas in which I propose to move amendments. There is a drafting oversight in that there is a definition missing. There is a phrase used in the Bill 'offering programme' in which the Bill omits to define, and I propose to move an amendment which inserts the definition set out in the directive of that phrase. There is a minor amendment in respect of clause 6(4), which presently provides for offers which shall not be deemed to be offers of securities to the public. One of those is whether total consideration payable for the security being offered presently says cannot exceed €100,000, that should read is less than, otherwise we are setting a limit of €1 more. The word 'Member' is missing after the word 'home' in clause 7(2)(a). In clause 11(2) there is a mis-

reference, instead of referring to section 16 it should refer to Article 8(2) of the directive. Clause 21, which is the power to set fees, the reference to competent authority will be replaced by reference to Minister, as I have just explained. In clause 23 there is a small typographical error, the word 'person' should be in the singular not in the plural. In the margin of Schedule 4 the reference should not be to section 6(3) as appears but rather to section 4(1). So that is a failure to catch up with numbering changes. There will be at the Committee Stage in front of the hon Members a letter setting out these amendments, but I just put them on notice of that now. I commend the Bill to the House.

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

HON F R PICARDO:

There are a number of points I want to take. The first is really just to look at the definition of 'Member State' and 'home Member State', and marry that with section 2(6) which says that the Ordinance shall only apply to the United Kingdom, only to the extent to which the Minister may so provide by notice in the Gazette. There are two issues there. First, why it is that we have decided in relation to this particular Ordinance to do it in that way, not simply to extend fully. Secondly, how it is that we might be able to deal with extent by notice. How is it that we might be able to extend only in part the application of the Ordinance to the United Kingdom. We heard the Chief Minister in his introduction to the Bill tell us about clause 7, in fact, what he did was read out clause 7(1), where he told us the applications to the competent authority for approval for a prospectus shall be made in such manner as the competent authority may require. In this Bill the competent authority actually does include the Minister. This is the one that I was thinking about. Competent authority and Gibraltar competent authority means the Minister or such person or persons as the Minister may from time to time appoint. I am just concerned that

although the circumstances in which the competent authority may not approve a prospectus, as set out objectively there in sub-section (2), the manner of application is really left as the competent authority may require. Now, a professional adviser who looks at this and is advising on how to make the application, might say 'well what legal notice do I go to, to see the form the application should take et cetera'. Perhaps thought could be given to putting that in a more objective way for professional advisers to be able to determine how to make the applications. Of course, clearly this would enable the competent authority, if it were in their wish to do so, to set different application procedures for different applicants. I think if we can go down the route of objectivity on that, that would be much better throughout. In section 19 we see that it is the competent authority that will determine what the penalties for breach of requirements et cetera are.

Now, in the Bill just before this one, I imagine what the Chief Minister said about financial services legislation applies as much to this Bill as it did to the earlier one, we were told that the practice was now to make the competent authority or determining authority, not the Commissioner of Police in respect of offences committed but the party responsible, the competent authority responsible, now initially at least it would be the Chief Minister who is the Minister for Financial Services, the competent authority, section 19 says that it is the competent authority who determines whether there has been a breach of the rules, whether to impose a sanction and what sanction to impose. That would make the Minister, initially, judge, jury and executioner in relation to these breaches. Again, I do not know whether we want that to be the case or whether we are simply setting ourselves up so that we can then delegate the power to another body which would then take that. But as the Bill stands, for that moment before the delegation occurs, it would be the Minister who takes that power. I simply ask the House do we want politicians in that role? I think we may want to reconsider that or the structure that will do that. Finally, in relation to sections 22 and 23, I hear what the Chief Minister says about these powers being delegated by the Minister, but I am a little

concerned that sections 22 and 23 which deal with the exemption from liability in damages and professional secrecy in corporation, both of which are important for the parties dealing with the regulator, and for the regulator himself, whoever he may be, because it is about his exposure to damages. If the definition of competent authority is the Minister or such person or persons as he may delegate to, then I do not know that the way that we drafted sections 22 and 23 actually read properly. Then we would be saying, neither the competent authority nor any person who is acting as a member, officer, or member of staff of the competent authority, now we have not said that the competent authority could be a body. It would only be a body that has a member, an officer or a member of staff. If it is to be the Financial Services Commission, then that party would have members, bodies et cetera. If it is to be the Minister or, in fact as we are told it would be, the Financial Services Commissioner, then I do not know that the Financial Services Commissioner has members or officers. He may have members of staff that work for him but can we look perhaps at that drafting language to see whether we can improve it? I think simply by adding the word 'body' in the definition of competent authority perhaps, because then a body would have members, officers et cetera. I do not know that otherwise it makes much sense but I do not think, apart from that, there is anything that needs to be added.

HON CHIEF MINISTER:

The hon Member knows that the usual position is that directives that only have cross-border application do not per se apply as between the United Kingdom and Gibraltar, which is the starting point of the discussion of this issue, and he is familiar with all the specific arrangements that have had to be made between Gibraltar and the UK on passporting generally, and I said this was a passporting type matter. The United Kingdom legislation, we understand, which is presently in place does not make provision to deal with Gibraltar separately, so we have not wanted to write into our own law unless it is on a reciprocal basis. But of course, it is a matter that we are going to be

discussing with the UK. In fact, I shall be discussing with them when I visit the UK on Friday. It may not suit us to stand on this point because he knows there are Gibraltar companies floating by pure coincidence. Normally when we pass directives here they are almost esoteric. Here is a case in which by extraordinary coincidence we come to transpose a directive on a subject matter, prospectuses, which is due to be in place by the end of this month or July some time, 1st July, which is not only in the middle of a spate of flotations of Gibraltar companies but actually straddles this period, the period between commencement and due commencement of the directive. So we are having to steer a very fine line between protecting the political issues on the one hand, whilst on the other hand not undermining the commercial needs of these companies, and we are in close contact with the firm of which the hon Member is a partner who represent those parties to make sure that we do not do anything here that is going to impede their flotation. Therefore, I thought that it would be good that if we do do something with the UK that reciprocates, that we should be able to do it by regulation rather than have to wait until a next Bill can be brought. The extent means precisely that. I envisage coming into an arrangement with the UK where we mutually and reciprocally recognise each other on the exact terms of the directive and therefore of this Bill. But if it were necessary, as for example may be the case in investment services to do a particular deal with the UK, then the reciprocal application by us to the UK of their inward notifying would reflect the peculiarities of the deal, and therefore that would derogate from the full extent of the application to the UK of the directive. The word 'extent' is simply designed to make sure that the Government will have vires not just to say that the Ordinance shall apply to the United Kingdom, but will say shall apply to the United Kingdom with the following variations, which would deliver whatever reciprocity is needed. That is the issue there. The hon Member referred to the question of forms, the forms are set out actually in Commission Regulations. We actually toyed with the idea, and I am happy to provide it to the hon Member or even to put it somewhere in Hansard in this House, with setting out in the Long Title that these are Commission Regulations.

These documents are actually contained in the Instruments, the nature of the forms and all of that, but there may be a need I should add to amend this Bill in the autumn because although the Bill transposes the directive, it may be necessary to amend it a little to accommodate in a commercially desirable fashion any proposal that may emerge for the establishment in Gibraltar of a listing market, in other words of a stock exchange. There is a proposal, which is at an early stage of consideration, that might require this Bill to be amended and that would be the opportunity for us to consider if necessary to be more specific about setting out here, or at least setting out here a reference to the Community Instruments on which the forms are to be found.

HON F R PICARDO:

The only thing that I was concerned about is that section 7 does not say anything like that. It says, 'in such manner as the competent authority may require', as if to suggest that these things are at large.

HON CHIEF MINISTER:

Oh, I see, and he was worried that if the competent authority was the Minister I may do this over breakfast.

HON F R PICARDO:

That it might be by letter, somebody might not know by looking at the legislation...

HON CHIEF MINISTER:

Oh I see. So his point would be addressed if it was, 'a prospectus shall be in the manner as the competent authority may require'. Can we think about this and perhaps do

something at the Committee Stage? If what he wants to do is simply tighten up the place or manner in which this has got to be required, so that if it is such an informal way that people cannot find out about it. I want to explain to the hon Member the question of the competent authority and I am going to try and do it without breaching confidences which again relate to the particular situation. The Minister has no desire to be the competent authority here and the Government are quite happy for the definition of 'competent authority' in this Bill to be the same as it was in the Insider Bill. In other words, that the Minister should appoint somebody else, that he should not be the competent authority. We are quite happy and, indeed we are happy to bring an amendment at a future date, after what I am about to explain to him is out of the way, to delete the reference to Minister so that it remains only a power of appointment rather than the Minister himself. Now, the issue which has caused us to put the Minister in but which will disappear in a matter of months and which therefore means that we can take it out, is that there is a case in hand, it is the case that I said before straddles, the second gaming company to float, the hon Member knows which one it is, there is an issue there about whether Gibraltar is capable of having the resource necessary and the expertise necessary to implement, to discharge its functions under this competent authority in time for the very tight calendar that that particular company has. In effect the prospectus needs to be approved very quickly, within a matter of weeks, and there is a fear on the part of that company that by the time we pass this legislation, resource, supply the expertise, designate this that or the other, that the time will be passing and, as I said before, these things normally happen as a matter of course and nobody is affected. But in this case there is somebody now waiting for this mechanism to be in place. We have therefore been requested, and we have agreed, on a one case basis to agree that if the FSA would agree to have the powers delegated to them, in other words, not to be the Gibraltar competent authority but to act on behalf of the Gibraltar competent authority as our delegatee, they would be willing to do that and that means that this company that is waiting to float can get on with dealing with it on the basis that the previous

company that floated and dealt with it did it because this legislation was not in place. If this legislation is in place it changes everything that they have been required, and all the people they have been talking to in England suddenly become irrelevant. So we have agreed that we would delegate, if necessary, in that particular case the powers of the Gibraltar competent authority, not that the FSA should be the Gibraltar competent authority but that the Gibraltar competent authority would delegate its powers to the UKFSA for the purposes of these, if one could call them, transition cases.

HON F R PICARDO:

So the Minister for Financial Services would not appoint the Financial Services Commissioner yet, he would first deal with this issue and once it is resolved would then move to traditional formula. I see.

HON CHIEF MINISTER:

Exactly, because otherwise, if I appoint the FSC or any other body to be the Gibraltar competent authority, I cannot deliver on my commitment to delegate because then the decision of whether he is willing to delegate would be his or theirs and not something that the Government could control. So the only way that I can make good my commitment to this company to bring about any delegation that might be necessary, is if I as Minister for Financial Services retain the right to do so, and I can only delegate functions if they are the Minister's. I cannot delegate somebody else's functions. Now, as soon as this issue is out of the way or if there is no need to delegate, as soon as the lack of that need is confirmed to me by the company in question I will be perfectly content to move an amendment some time after the summer and revert to the original formula. It is actually not appropriate that the Minister should exercise regulatory functions of this sort as opposed to licensing functions, which Ministers can, and but for this fact that I have just explained to

the hon Member that we would not be putting the Minister there, it would be the same formula as the other.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

**THE COMPANIES (TAXATION AND CONCESSIONS)
(AMENDMENT) ORDINANCE 2005**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend section 10 of the Companies (Taxation and Concessions) Ordinance, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is to reconstruct and slightly amend section 10, which sets out three different amounts of money. First of all to convert it into one rate and then to increase that rate not to £550, which will be an

amendment that I will be moving, but to £450. The reason for the increase is this, following the appropriate measures agreement with the European Commission that provides for phasing out of the exempt status companies until 2010, every time that a company goes out in effect it can be replaced by less than one because there is a quota system for replacement. The Government are of the view that the available quota at any time should be used for those finance centre and other economic related activities which add most value to the economy of Gibraltar, as opposed to the simple brass plate company. The way to do that and at the same time raise some additional revenue is to increase the rate which makes it less likely that marginal people who may only want it for a pure brass plate, will want to use it but which will be irrelevant to somebody using it for a piece of financial structuring or for a piece of corporate structuring or for some of the things which the Finance Centre now is very prosperously engaged in, in terms of the niche markets that the various firms are finding and which are much more sophisticated and sustainable products than the personal money box company. That is the purpose, in fact we toyed with a much higher figure than this because we cannot have one fee for existing beneficiaries and another fee for newcomers. All that I have just said only applies to newcomers because if one is there one is there, but we cannot have a different fee for newcomers than for existing beneficiaries. So we had to find a figure, if we set the figure too high it could frighten off existing beneficiaries. So we said here is a figure which we think is high enough to discourage new beneficiaries of the sort that we do not want to encourage to take too much of the quota but which we do not think will frighten off any substantial number of the existing beneficiaries, given that this fee £225 I do not think has ever been changed since the Companies (Taxation and Concessions) Ordinance was introduced, I think from memory in 1967. So I do not think this increase frankly is outrageous and it brings it much more into line with other jurisdictions that have similar regimes. If the hon Members thought that we could get away with a higher figure, of course for the Government it is additional revenue and all of that, but we think this is the figure at which it is correctly pitched.

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 later today.

Question put. Agreed to.

THE FINANCIAL SERVICES (COLLECTIVE INVESTMENT SCHEMES) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to regulate the promotion, establishment and operation of collective investment schemes and to implement in the law of Gibraltar the provisions of Directive No. 85/611/EEC of the European Parliament and of the Council of 20th December 1985, as amended, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill is enabling legislation that establishes a framework for the supervision of collective investment schemes. The detailed requirements of this supervision will be specified and set out in Collective Investment Schemes Regulations that will be made under section 53 of the Bill for the Ordinance. Specifically the Bill provides for the following: Authorised UCITS (which is the undertaking collective investments and transferable securities), in other words, EU collective investment schemes; authorised non-UCITS retail schemes; recognised EEA UCITS schemes; recognised foreign schemes; experienced investor funds and the manager, trustees, depositories and other persons performing the functions with respect to or in relation to collective investment schemes.

Part 1 provides for interpretation and again, the definitions flow primarily from Directive 85/611/EEC, as amended. In particular clause 3 defines a collective investment scheme as any arrangement in respect to property, the purpose or effect of which is to enable persons taking part in the arrangement, whether by becoming owners of the property or any part of it or otherwise, to participate in or receive profit or income arising from the acquisition, holding, management or disposal of the property or sums are paid out of such profit or income. Such arrangements must be such that the participants do not have day to day control over the management of the property subject to the arrangements, whether or not they might have the right to be consulted or to give directions. They must have at least one of the following characteristics, namely, the contribution of the participants and the profits or income out of which payments are to be made to them are pooled; the properties managed that are whole by or on behalf of the operating scheme. In other words, clause 3 defines the concept of a collective investment scheme.

Clause 4 defines an open investment company as a collective investment scheme where conditions set out in clause 4 are satisfied. Clause 5 defines an EEA UCITS management company as a qualified EEA company, the regular business of which is the management of UCITS in the form of unit trusts or common funds or of investment companies or both. A company is deemed to be a qualifying EEA company if it is a body corporate that does not have its registered office in Gibraltar and is authorised in accordance with the UCITS Directive by its home state regulator.

Part II of the Bill specifies certain restricted and prohibited activities for which authorisation is required. Those again are set out in Part II and they include establishing or acting as manager, administrator or operator of a winding-up a collective investment scheme, these are the things that cannot be done without specific authority. Acting as the trustee of a unit trust scheme, acting as the depository or sole director of an open-ended investment company and undertaking any activity prescribed in the Collective Investment Schemes Rules as a restrictive activity.

Part III provides for authorised schemes. An authorised scheme, whether a UCITS scheme or a non-UCITS retail scheme is a scheme that is based in Gibraltar that is not authorised in any other jurisdiction and that would retail to the general public. Clause 18 provides that the manager of an authorised scheme, whether a UCITS scheme or a non-UCITS retail scheme, must be either a Gibraltar UCITS management company or a UCITS management company authorised by another EEA State, otherwise the principal functionaries of an authorised fund would have to be authorised. Part III also contains restrictions on the alteration of authorised schemes and on changes of manager, depository, trustee or directors of an authorised scheme.

Part IV of the Bill provides for the authorisation of persons to undertake restricted activities. In other words, the regulations will define what are restricted activities, Part IV of the Bill then provides for the authorisation of persons to undertake activities

which are restricted. In particular, clause 27 provides that such persons must be fit and proper persons and the authority must in considering whether to authorise a person have regard to the need to protect the public against financial loss and to protect the reputation of Gibraltar. Clause 28 provides for the authorisation of Gibraltar UCITS management companies.

Part V of the Bill provides for recognised schemes. The Bill provides that a collective investment scheme may be recognised as an EEA UCITS scheme or a foreign scheme. An EEA UCITS scheme is a collective investment scheme that is authorised as a UCITS scheme in another EEA State. As required by the UCITS Directive, the authority has no discretion as to whether to recognise an EEA UCITS scheme. Clause 35 provides that recognition may only be refused if the way in which an invitation is to be made to persons in Gibraltar to become participants in the scheme does not comply with the law of Gibraltar. As required by the UCITS Directive, clause 38 provides that the operator, trustee or depository of a recognised EEA UCITS scheme does not require to be authorised by the authority in that capacity. A scheme that is managed in the jurisdictions outside Gibraltar and that is not a UCITS scheme, may be recognised by the authority as a foreign scheme. The authority has discretion as to whether or not to recognise a foreign scheme provided that it complies with conditions specified in the Bill, which are that the scheme complies with the Bill and the Collective Investment Schemes Regulations, that the scheme is subject to an authorisation supervisory regime in the jurisdiction in which it is constituted and that in the authority's opinion provides participants in Gibraltar with protection equivalent to that provided in Gibraltar, that there are adequate arrangements for supervisory cooperation and that the scheme is being operated and managed in accordance with the authorisation and supervision regime to which it is subject. So those are the terms on which a foreign scheme, which basically means a non-EEA and non-UCITS scheme, can be recognised in Gibraltar.

Part VI of the Bill provides for the taking of enforcement action against and with respect to collective investment schemes,

including experienced investor funds and the enforcement action that may be taken, for example set out there in clauses 44, 45, 46, 47 and 48 are such things as revocation and suspension of the authorisation or the recognition, application to court for a protection order, the issuance by the regulator of directions to the scheme, the appointment of an examiner and the issuance of a public statement, which very often is an increasingly used pool of regulation and that is the threat of making public statements and the making of public statements.

Part VII of the Bill contains certain general provisions and they relate, for example, clause 49 to the way in which applications must be made to the authority; clause 50 for the way in which decisions of the authority may be appealed; clause 51 provides for the creation of offences; clauses 52 and 53 provide for the making of experienced investor fund regulations and Collective Investment Schemes Regulations by the Minister; clause 55 provides for the making of codes of practice and guidance notes by the authority; and clauses 54 and 57 provide for the application of the Financial Services Ordinance 1989 and 1998 for the application of those Ordinances and regulations made thereunder to collective investment schemes where applicable. The first Schedule details the persons exempted from clauses 6 and 8. That is to say, restrictions on the promotion of collective investment schemes and prohibition of carrying on restricted activity without authorisation. So there are certain people exempted from that and those people who are exempted are described in Schedule 1. Schedule 2 makes consequential amendments to the Financial Services Ordinance 1989. I commend the Bill to the House.

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

HON F R PICARDO:

This is the second piece of legislation in relation to collective investment schemes that will be in our Statute Books and as I

understand it, this is a transposition of the second UCITS Directive. It has taken us 20 years to get round to doing it. I see it happened in 1985. The Bill says it was supposed to happen in 1985 and I think this speaks to the point the Chief Minister made a few moments ago himself that our Finance Centre is becoming much more sophisticated in tapping markets which were before perhaps not as relevant, and that this for the management of funds will be a useful piece of legislation which will find support from the Opposition Members.

HON CHIEF MINISTER:

I will just say, in remarking on that observation that most of these provisions were, I do not know if the hon Member remembers the number of years that both the last Gibraltar Governments have struggled with the concept of passporting and the granting of passporting rights, and investment services passporting is one of the ones that we have actually still not achieved. It is the one remaining which we hope to achieve very soon. So there would have been very little point in Gibraltar transposing a directive 20 years ago, or at any time during the last 20 years, when we would have had to recognise other peoples' rights in Gibraltar which they were not willing to recognise in response. So it is not actually a question of indolent delay, it has not been done because there has not been any advantage to Gibraltar in doing it and that is now going to change.

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 EMPLOYMENT (AMENDMENT) ORDINANCE 2005

HON J J HOLLIDAY:

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 J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the object of this Bill is mainly to enshrine in Gibraltar's statute law the Chief Justice's recent ruling in the Union versus the MOD contractorisation case. As the House will be aware, one of the issues before the Supreme Court was whether the Supreme Court had jurisdiction to hear the case given that section 78(g) of the Employment Ordinance vested jurisdiction in the Industrial Tribunal in relation to Acquired Rights Directive issues. The principal issue at stake was that if only the Industrial Tribunal had the jurisdiction then the declaratory and injunctive relief sought by the Unions in this case would not be available since the Industrial Tribunal had not got that jurisdiction. The Chief Justice ruled that the Employment Ordinance did not oust the Supreme Court's inherent jurisdiction. The Government support that view and wish to see that enshrined in statute so that workers whose rights under the Employment Ordinance that are being violated by privatisation situations can seek the clarity of injunctive ruling. Even though the Bill was drawn up and published immediately after the Court ruling, it is now actually academic in the present

case because in the event the Ministry of Defence subsequently elected not to appeal against the ruling. Nevertheless, the Government wish to proceed with the Bill to ensure that the Supreme Court will always have jurisdiction in future cases whether the relief sought by any party to proceedings is not available in the Industrial Tribunal, or whether the Court does not consider it evident or equivocal for such relief to be sought from the Industrial Tribunal. The Bill also enshrines the ruling that the Employment Ordinance does not oust the Supreme Court's inherent jurisdiction. I commend the Bill to the House.

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

HON F R PICARDO:

Opposition Members associate themselves with those remarks. We gave an indication that we will support any legislation brought by the Government in the endeavour of ensuring that we entirely stop the process of contractorisation and anything that would have the effect of putting into a contractor work which is presently undertaken by directly employed labour. Can I also say that I think it is much better that we are able to do this in the absence of an appeal, because it would be strange that this House were actually to change legislation where it is the subject of a judicial process, and the House can count with the support of the Opposition Members.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

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

Question put. Agreed to.

THE POLLUTION PREVENTION AND CONTROL (AMENDMENT) ORDINANCE 2005

HON J J NETTO:

I have the honour to move that a Bill for an Ordinance to amend the Pollution Prevention and Control Ordinance 2001 to partly transpose Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, be read a first time.

Question put. Agreed to.

SECOND READING

HON J J NETTO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is to partly transpose Council Directive 2003/35/EC commonly referred to as the public participation directive. The public participation directive seeks to amend a substantial number of directives, some of which apply to Gibraltar, in order to make EU law compliant with the UN Economic Commission for Europe (UNECE) Convention on Access to Information, public participation in decision making and access to justice in environmental matters, commonly referred to as the Aarhus Convention to which the EU is a signatory. The net effect of the directive is that both a statutory consultation scheme and provision for access to justice is introduced into existing directives, either by way of amendment

of the directive in question or by virtue of their inclusion in the Annex of the directive. That lists which of those existing directives need to be revisited. As far as Gibraltar is concerned, the public participation directive requires the amendment of several enactments. Of these, two have already been amended, namely, (1) the Public Health (Air Quality Limited Values) Rules; and (2) the Public Health (Air Quality Ozone) Rules 2004.

Turning to the specifics of this Bill the House may wish to note that the changes to the Pollution, Prevention and Control Ordinance are not extensive. The principal amendment concerns the insertion of the definition of 'any person concerned'. The extension of the definition to include non Governmental organisation permits the involvement of groups as opposed to individuals who may be more reluctant to become involved if they have to do so in their own name. The second substantive change relates to trans-boundary consultation. The House will note that in common with other EU environmental directives, cross-border consultation is required where it is likely that another Member State is to be affected by actions taken in Gibraltar. Section 8(a) introduces the framework for such consultations and provides the mechanism for public dissemination of information received from another Member State, where operations there may impact on Gibraltar. Finally, the new Schedule 2 sets out the level of details required in the public consultation in line with the requirement of the directive. I commend the Bill to the House.

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

HON F R PICARDO:

I note the first intervention the Hon Mr Netto as Minister for the Environment makes. I would not want anybody who has heard the introduction prepared by the Minister to think that this is the first time that there is any provision in relation to trans-boundary

consultation in our laws. In fact, we have already given effect in this House to provisions in the Town Planning Ordinance which provide that developments which have significant effects on another Member State should be the subject of consultation, it is not just here as the Minister has suggested. What this legislation is doing is that it deals with projects which have significant, or might have, significant negative effects. So can I simply say that it is absolutely right for the Government to say that those who accuse us of not giving effect to our EU obligations when it comes to either significant effect or significant negative effect of our trans-boundary projects, should look themselves at what they are doing which might have significant effect or significant negative effect on our environment also. Can I also say that the Opposition have been calling for some time, certainly I have been calling for this even before I was elected, that we should really try to determine not just with the environmental monitoring stations that we have set up already but to determine independently and to fund those environmental groups who are trying to determine whether or not we are suffering noxious emissions from things which are being done in another Member State close to us. If we are, we should take action to try and restrain them if necessary by funding such litigation or making such complaints as the Government, or anybody who the Government might as an independent NGO wish to support in this, might be able to take at a European level to restrict those, I believe, very significant negative effects which are being visited upon us. Can I simply also say that, this is simply at interpretation level, that I think neither in the Town Planning Ordinance or in this Pollution Prevention and Control Ordinance, do we find a definition of what is significant. I think that, perhaps by its very nature, is something that cannot be defined and has to be left to the discretion of those who are making the decisions at the time but it may be that thought should be given to some guidance being provided to the DPC or the relevant Minister as to when these things are relevant. Not so much because of the trans-boundary issue which we are considering here, I am also concerned about that for the reasons I have already addressed, but because of the projects that those of us in Gibraltar might wish who are

subject to environmental impact assessment because they have a significant effect and others might take the view that they do not. I think there needs to be an element of objectivity inserted there. Other than that, the Bill will find support from the Opposition.

HON CHIEF MINISTER:

First of all let me say that the wording being introduced in this particular Bill is wording that comes from the access to justice and the public participation directives, so this is the regime that Europe has chosen to create, but I think there is a little bit more objectivity than he may think exists in the process domestically. He, I am sure, knows that under the Town Planning (Environmental Impact Assessment) Regulations 2000 the Town Planner has to set out to assess the need for environmental impact assessment and then, I do not remember if it is the Minister or the Chairman of the DPC has to decide whether or not such an assessment is actually required. That is the regime everywhere in the European Union. It would be impossible for the European Union to agree a definition of the word 'significant' because they would never agree. No country would abrogate the right to develop itself in a way which was hamstrung by a definition, I suppose it would be possible but I do not think they have ever tried it for that reason. So this is what they call a nationally retained competence, in other words, to decide. The point about the application of the concept of objectivity to the trans-boundary notification in the context of the carfuffle which has been generated now in relation to the East Side, is not so much lack of objectivity as lack of coherence. If the hon Member gives me the opportunity to wax lyrical further on this matter. I suppose the Spaniards could say, and the authority here is the Spanish Planning Authority, could say, 'ah well we never notified you of any of the many reclamations that we have done in the Bay and on the La Linea coastline on the Mediterranean side because our competent authority did not judge that there were significant trans-boundary effects', and they would be entitled not to notify if that was the judgement that

they took. Just as we would be entitled not to notify them about the East Side or other developments if our competent authority, the Minister for Trade and Industry, came to the decision that having considered it, it did not have significance. So whilst recognising that this is a retained national, they have got to be consistent. What they cannot argue is that when reclamations take part on the Spanish side of the Bay, they reckon that there are no trans-boundary national effects on Gibraltar's environment but when we do them they do have. For example, the reclamations that have taken place already in La Linea on the Bay side of La Linea are hard up against the frontier fence. Indeed they incur on British sovereign waters the pier actually invades British sovereign waters. Now, it is not just the pier it is the harbour, it is the new La Linea harbour on the Bay side, how they could argue that that does not affect the flow of sand to Western Beach but that building a reclamation, which by the way already exists in large parts, on our side of the runway affects the sand in the beach at La Linea, which in any case the runway serves as a groyne against anyway, I do not know technically whether it does or it does not. The assessment has not yet been done and I cannot stand up now and say whether it has or has not got significance, but certainly it would be wholly incoherent and irrational for them to be of the view that our reclamations cause significant trans-boundary environmental effects on their environment but that none of the ones that they have done are capable of having that effect on our environment. It is just irrational to the point of disrepute. So I endorse and subscribe to the sentiments expressed by the hon Member.

Question put. Agreed to.

The Bill was read a second time.

HON J J NETTO:

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 12.30 pm.

The House resumed at 3.35 pm.

THE LEGAL AID AND ASSISTANCE (AMENDMENT) ORDINANCE 2005

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is the legislation for the way that the Government propose to give assistance to the so-called TEP Plan holders. It is assistance of the sort that they have asked, in other words, this is what they have asked for, they have asked to be funded in the litigation but this has got to be understood in the context of what has already happened. In other words, there are already or there were three now two, one has lost the legal assistance and that explains one of the measures set in the Bill, to reverse that. But there were three, now two, claimants who are legally assisted in their own right and the assistance required is therefore twofold. (a) To make sure that those provisions in the existing Legal Aid Ordinance are not used against them, which may forfeit legal aid if others benefit from the case and the Registrar thinks that they should be making a contribution to it. So if somebody has a legally aided case and it becomes a test case from which others could benefit, under the existing Legal Assistance Ordinance there is provision for the administrators of the scheme to say, 'ah, I believe this is a case from which others apart from you benefit. I think that they should be contributing to the cost of it too and therefore your legal aid certificate is reduced'. So part of what this achieves is protecting it from that. In other words, it does not matter that

there are others who benefit from a legally aided test case, indeed that is the intention, that other TEP Plan holders should benefit from being legally assisted. In that sense this is not costing the Government any additional money because the Legal Aid Fund is already paying for those three cases and is already exposed to an award of costs against the legally aided claimants if they lose. All we are doing is creating a regime whereby others who may not themselves have been entitled to legal assistance can nevertheless benefit from and become legally assisted in the context of what is called a Group Litigation Order.

Now, these things did not exist or if they did they were called something else when I last practised law, but basically when there are cases that raise common legal issues the court can order them to be grouped together under the Court Rules, in what is called a Group Litigation Order, and then the cases proceed on the basis of one or two of them to test the legal issues that arise in all of them. So what this does is to say two things. Here are three legally assisted cases, they can serve as test cases for all the others without forfeiting their legal assistance because there are third party beneficiaries from the ruling. That is the one thing that it achieves. Another thing that it achieves is to extend to all those other people in respect of all those other cases, legal assistance even though normally they would not be entitled to it but only during the part of the proceedings that is dealing with adjudication of the common issues. So once those common issues, which are the same in all the cases, is resolved each party then has to go by themselves in applying those legal adjudications to the facts of their case. Those claimants that are legally assisted will continue to have legal assistance for that second phase of their individual action. Those that are not legally assisted would have to fund that second phase by themselves. That is the regime created here. Now, it is achieved by reference to adding further sub-sections to sub-section 13, which is the existing regime, and it is not a question of these new provisions granting legal assistance because the hon Members will see from the second line of sub-clause (3) that it says, 'the Registrar shall have

power on the application of a legally assisted person', so it has to be a legally assisted person. A legally assisted person can then apply for any one of these orders. Now that takes us as far as (e) and I will go through each of them one at a time. Sub-section (4) is there for a slightly different reason, and I propose following the discussion that I indicated this morning I needed to have over the lunch break, I intend to move some amendments but which I have to present now because it really affects the principles of the Bill, so I cannot leave the amendments to the Committee Stage. In any case I will talk the hon Members through it. On the second page, (e) is there for a very specific purpose. What it says is, and it is there because there is such a case, one case with one plaintiff of one name. It says, so the Registrar can order that 'where a person who has had', the 'had' is missing and that is one of my amendments, 'who has had legal assistance and who has lost it by reason of the taking into account of the capital value and/or income derived from any asset or the realisation of any investment which is the subject matter of the dispute and/or test claim prior to the implementation of this Ordinance, shall be entitled to restoration of legal assistance from the date of the loss of such certificate'. There is one of these three legally assisted claimants that has already embarked on litigation. I am not going to mention the name but one of the three TEP Plan holders that had already obtained legal assistance in his own right and whose case was already afoot, received a cash call and said, 'look I cannot afford to make any cash call, is there any way that I can exit this situation?', did that and then found himself with a small amount of money in his hand and was told that now he had lost the legal assistance because he was over the threshold. Now that was unfortunately one of the test cases so it is very important to the collective concept of the Group Litigation Order that this case be saved. But it cannot be saved unless the plaintiff in question has his legal assistance restored because he cannot afford to carry it on from his own resources. So (e) is designed only in effect to restore entitlement to legal assistance to that person. In other words, where the money that takes one above the threshold that disentitles one to legal assistance, in other words that causes one to lose legal assistance that has already been

awarded, is the asset in dispute or at the heart of the dispute itself, then such persons do not forfeit their right to legal assistance, and in this particular case, shall be entitled to restoration of legal assistance from the date of the loss of such certificate. Now, we then discovered that actually that is a trap because although everybody agrees that the objective is desirable, it actually does not succeed in achieving it because sub-section (3) then says, 'the Registrar shall have power on the application of a legally assisted person to make any one or more of the following directives'. One of those is (e), he is no longer a legally assisted person, so in fact we have created something for a particular party who cannot access it. The way that we propose to deal with that is to amend the second line of (3) after the words, 'whose claim is' add the words 'or is to be the subject of an application for a Group Litigation Order'. Also to add a new sub-section (5) and hon Members may wish to look at the letter to see the text of the new sub-section (5) which will say, 'for the purposes of sub-section (3) a person such as this described in sub-section (3)(e) shall be deemed to be a legally assisted person'. In other words, he falls within the definition of legally assisted person if he also falls within the definition of (3)(e). That makes him capable of applying for something which was otherwise intended for him but is not available, so that amendment is in the letter by way of proposed additional sub-section (5). The other amendment that I have just mentioned to hon Members is to add the words 'or is to be' in the second line. So the second line would read, 'legally assisted person whose claim is or is to be the subject of an application for a Group Litigation Order'. Of course, the application for the Group Litigation Order has not yet taken place, this is an application that I suppose is made to the court and one has to take to the court a statement of what are the alleged common issues, I suppose the common issues have got to be identified to the court and the court allows group litigation in respect of an identified list of common issues. None of that has happened yet so if the claim can only be made by somebody who is already the subject of an application, it would not be available to them because that has not happened. So it is just widening the time

of which this can be applied by saying 'who is or who is to be the subject of a Group Litigation Order'.

Now, the effects of (a) and (b), I say the effects of (a) because (a) is in respect of their own costs and (b) is in respect of the indemnity of the defendants costs, in case these people lose their claim, is basically to say 'both the legally assisted party and any other member of the group, whether or not he is legally assisted in relation to the common cost issues, are covered by and indemnified by the Legal Aid Fund'. But not thereafter, thereafter it depends on whether one is legally assisted or not. Little (c) is to reduce the fees. Apparently the cost of issuing a writ has risen since I was last in legal practice, it used to be £50 for everybody and now apparently it is on a scale and it would be about £500 for each of these. Well, £500 is a significant sum of money for some of the people affected by this situation. So the effect of (c) is that the court fee on the issue of a writ for non-legally assisted claims, I suppose in the case of legally assisted claimants is paid for by the Consolidated Fund anyway, but in the case of non-legally assisted claimants is reduced to £50 from I am told most of them would otherwise be £500 because of the threshold. So that is just a straightforward subsidy so to speak, a reduction in the cost of issuing the writ. Before we leave (a) and (b) there are two amendments that I am proposing to that just to make sure that it achieves what I have said and only what I have said. In (a) the second line of the second page over the page on page 530, where it says 'that the common costs of the Group Litigation Order' and then there are three, four or five lines in brackets which is 'the Civil Procedure Rules definition of GLO costs as defined in Part 48.6(a) of the Civil Procedure Rules and including costs incurred in relation to the GLO issues individual costs incurred in the claim et cetera' it is important that we add before the word 'claim' in the second line, 'legally assisted'. So that the second line would read, 'individual costs incurred in a legally assisted claim while it is proceeding as a GLO test claim'. In other words, so the only people who would be entitled to their individual issues costs as opposed to the common issues costs, are legally assisted plaintiffs and not the non-legally assisted but they only benefit

from the common issues phase of the proceeding. So I will be moving at the Committee Stage that amendment to introduce the words 'legally assisted' in front of the word 'claim', and in (b) it has got to be a little bit wider because (b) says that 'any order for costs made against a claimant entered on the group register for the GLO', again I am advised that we need to be a bit clearer that non-legally assisted people can only have them up to the end of the common issues costs. So I am told that the way we would do that is by adding after the acronym 'GLO' on the second line, inserting the words 'attributable to the GLO issues (but not individual issues)'. That is also set out at point 3 of the letter that the hon Members now have. Little (d) says that the capital value and/or income derived from any asset or the realisation of any investment which is the subject matter of the dispute and/or test play, ought not to be taken into consideration by the Registrar in computing the resources of a person seeking or receiving legal assistance for the purposes of both clause 4 and 5 of the Legal Assistance Assessment of Resources and Scale of Contribution Rules. In other words, whereas (e) is about restoring *ab initio* the lost legal assistance of somebody who had it and lost it because it sold the investment, (d) is about a possible future claimant in that situation, not having it and losing it but having it and the Registrar saying, 'you cannot have legal assistance because you have got an asset'. What asset? The TEP Plan. 'But look Registrar, I cannot cash the Plan in'. 'Ah, well, that is too bad'. In other words, that where the subject matter of the litigation cannot be the asset in the context of a GLO that takes one above the threshold, because it presupposes that one can dispose of it or convert it into cash for the purposes of funding the litigation that one may not be able to.

Now subsection (3) is all in the discretion of the Registrar, albeit that the Registrar cannot exercise that discretion without the public interest having been incurred or the consent having been given by the Chief Secretary, and that is in (3) itself. But of course that is not quite enough for the Government, because the Government have a political commitment to assist the TEP Plan holders and simply to give the discretion to somebody else to decide whether the legal assistance should be given, does not

ensure that the legal assistance is received. For example, the Registrar might say, 'Well thank you very much for the power to consider this, I exercise my discretion against it'. Then the TEP Plan holders are back where they started from. So (4) says that when the Government are satisfied that the public interest of Gibraltar so requires, then the Chief Secretary may direct the Registrar to issue a certificate on such directions. That is to say, not to grant legal aid or not to grant legal aid but whether to invoke any of the (a), (b), (c), (d), (e) additional benefits over and above the legal aid assistance that the person already has so that the Registrar's discretion is lost and the order has to be made. Now, a concern has been expressed to me, I have to say it is not one that I personally share but it has been expressed to me, that this left open-ended means that in future the Government could decide in what circumstances non-entitled, not entitled because entitled persons always get it, but that the Government could decide in future cases whether non-entitled claimants could squeeze in on the coat-tails of entitled applicants in Group Litigation Orders. Now, I personally do not see anything wrong with that, at the end of the day this is something extra and in addition to but the Government's view is that we are only trying to deliver assistance to the TEP Plan holders and therefore, if that is a concern, we are perfectly happy to accommodate it and the way we have decided to accommodate it is to add a sub-clause (6) that makes it clear that all of this, sections (3), (4) and (5), only apply to the TEP Plan holder. So in effect by sub-section (6) that we are about to add, the effect is that this legislative amendment becomes a ring-fenced amendment to the Legal Aid Ordinance just for the benefit of the TEP Plan holders.

The new sub-section (6) will read, 'sub-sections (3), (4) and (5) of this section shall only apply to claims relating to or arising from traded Endowment Plans marketed either alone or together with others in Gibraltar prior to the 1st January 2005 by a financial intermediary licensed in Gibraltar under the Financial Services Ordinance.' I am assured that that does not interfere with the benefits of this to the TEP Plan case but deals with the concern that this is an open-ended regime that allows the

Government in future cases to say, 'well yes you can be funded for a Group Litigation Order but you in another case cannot'. Now nobody else can so this is a one-off legislative support for the TEP Plan holders. It is not actually formulated around a particular financial intermediary because in fact there is another financial intermediary that also was involved in marketing these trade eruptions it is not just the one beginning with 's', there is another one, so it is available to that. So subject to the amendments, and this is a case where I think the amendments do go to the principles of the Bill and not just to amendments, so subject to those amendments which I have not yet moved but I have given notice of, subject to those amendments I commend the Bill to the House as being the assistance that the TEP Plan holders have been asking the Government to give to them.

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

HON F R PICARDO:

This is a Bill that we have already indicated when it came would enjoy the support of the Opposition. We indicated that some time ago because this Bill is long overdue, it is now over a year since I recall it was brought to my attention that those who were representing the TEP Plan Association first communicated with the Chief Minister. Mr Speaker will recall that since he took the Chair I have been pressing the Chief Minister at Question Time on when he was going to reply to this letter et cetera, and I think that this has taken far too long on an issue which the Chief Minister will know, from the days when he used to practice law, limitation periods have been relevant and have been vexing, and if they have not yet expired they have certainly been causing stress to many of the parties involved. Certainly to some of the parties who cannot afford, because of the circumstances in which they find themselves, the £500 that they had to put their hands in their pockets for to issue these claim forms. I think it is important that that is highlighted because the Government really

should have brought this Bill to the House sooner. Having said that, that is the only point of criticism that I raise in relation to this piece of legislation.

The rest of the things that the Chief Minister has said I take as being points well made in relation to the legislation. He will understand that I am trying to frame the legislation with the amendments that he has proposed now, given that he has only let us have these amendments at this stage. I am concerned to see, and perhaps he can give this some thought, the way that the new sub-section (6) has been drafted. Concern had also been expressed to me about the old sub-section (4) on its own, and although we all knew why we were doing this I could see how somebody might say, 'ah the Government can now direct the Registrar to give legal assistance in some cases'. We are adding a restriction so that it is clear what this Bill applies to but I am very concerned about the final words this 'marketed either alone or together with others in Gibraltar prior to 1st January 2005 by a financial intermediary licensed in Gibraltar under the Financial Services Ordinance', because let no one believe that these TEP Plans were designed by anybody in Gibraltar. These TEP Plans were clearly designed by individuals outside Gibraltar, regulated by other regulators and they got through the regulation elsewhere and I think it should be very clear that the intention of this House is to ensure that claims can be brought by these parties, not just against those who might have marketed either alone or together with others in Gibraltar these TEP Plans, but also those who might be from outside Gibraltar whose products these TEP Plans were. Now I note that the wording at the beginning of the new sub-section (6) may be wide enough but that does not ensure that there is no chance of such an argument succeeding and perhaps simply say after 'Traded Endowment Plans', I say this because the Chief Minister has given us this wording now, simply 'Traded Endowment Plans sold in Gibraltar' so that it is clear that those who designed the TEP Plan outside are also to be subject to claims funded by the Legal Assistance, although I understand from my communication with these parties that the group litigation will be taken both against the parties that were incorporated and

licensed in Gibraltar and those other parties that might have responsibility although they might have been regulated elsewhere, and they will now be sued in Gibraltar.

I give notice of the fact that I think that at the Committee Stage it would be prudent for us to consider also small amendments by deletion in sub-section (3), where we are referring very particularly to Part 19, rules 10 and 14 and Part 48.6(a) simply because, and I accept that the Chief Minister has not practised since the Civil Procedure Rules came into effect in Gibraltar, but the Civil Procedure Rules numbering tends to change much more than the old Rules of the Supreme Court numbering used to change and it may be that a reference to rule 19(10) today is a reference to the wrong rule six months from now. So perhaps simply a reference to the Civil Procedure Rules would be sufficient. I tell him that so that he can consider it although I see that he is nodding his head. The other issue is I do not know whether in fact anybody has already issued a claim form and paid £500. I think the only parties that have actually got to the stage where they have had to issue claim forms because the limitation was running out, are legally assisted parties but if not I would be grateful for an indication that anybody who has had to pay the £500 would get £450 back. I think that would be fair. Other than that this Bill enjoys the support of the Opposition. We believe that these TEP Plan holders deserve the support of this House.

HON CHIEF MINISTER:

I think we had better stay on the substance of the Bill where we appear to agree and I shall limit myself in respect of the rest of the hon Member's contribution simply to say that I disagree with and reject his explicit criticism that this is overdue and that this Bill should have been brought a year ago. This Bill has nothing to do with the original letters which he thinks I took too long to answer. Those letters did not say, 'please do this' and the Government have taken a year to do this. Those letters were in respect to unspecified requests for Government assistance

which has taken quite a long time to convert into identifying how the Government can and should assist and how that might be delivered. None of the things which the hon Member has said about limitation periods creeping upon stressful people is true. This matter has proceeded legally assisted by three claimants and the action that has been taken is being taken well within any limitation period. I do not know whether the hon Member is speaking now professionally or politically. If he is speaking.....

HON F R PICARDO:

Point of order, because I have had to make this point of order before in this House in relation to this particular issue. I have told this House on numerous occasions that I am not professionally involved, and as I understand it neither is anybody in the firm of which I am now a member again, professionally involved in representing anybody who holds a TEP Plan. I have been scrupulous in keeping my involvement entirely political so that I can come to this House and make such statements as I need to make.

HON CHIEF MINISTER:

All right, in that case he is as uninformed as I am about the proximity of limitation dates. The date of the purchase of the TEP Plan is not the relevant date for limitation periods, and that is not the basis on which anybody advising a TEP Plan holder, which we now know does not include him, is advising. I understand that the hon Member has converted this issue into something of a political bandwagon but the Government were not going to allow themselves to be precipitated into pretty unconventional interventory action, simply because the hon Member chose to go on a political crusade for his bandwagon purposes. He is entitled to do that but he must not confuse his entitlement to do that with making himself the judge of what is an appropriate rate of action in terms of timing by the

Government. Nor does he become the judge of whether the Government should act in January 2004 or in June 2005. The Government first of all had to decide whether they were willing to intervene at all, then they had to decide how they would intervene, then they had to consider legislative considerations and then, of course and from the beginning, they had to make sure that their intervention was in good time. I am happy to say to the hon Member that all of that has happened and therefore, the Government act as they decide they should properly act and the hon Member is not in a position to be the judge as to what is proper action by the Government. He is free to criticise the Government for not having acted quickly enough in his view. He has done that and I am rejecting that criticism and trying to explain to him why I reject and do not accept that criticism, but he is not obliged to accept my rejection any more than I am obliged to accept his criticism. So there we are. Now let us move on to the substance where there seems to be more agreement between us.

The hon Member spoke about concerns raised to him, but I know who may have raised concerns to him. Let me hasten to add, not that he has insinuated anything in this respect, not that he has suggested the contrary I acknowledge, but actually the observations have come to me from an ex colleague at the Bar. It has not come, if that is what he was thinking from the judiciary, to whom I have written the day before the publication of this Bill and from which I have not yet heard anything. So I do not know whether the judiciary has a view, I do not know who it is that has approached him but certainly we have not heard, except from a lawyer in practice who has raised this issue, and I said, 'well fine, it is not an issue for the Government provided we can find a way around it without preventing ourselves from giving the assistance'. If we can find a way around it that does not prevent the giving of the assistance, we can accommodate this esoteric point. If we cannot, then frankly we do not think the esoteric point is frankly that well justified and we would have done it anyway and sought to explain and justify the need to do it. This amendment finesses the issue because apparently the concern

is alleviated if it is ring-fenced to this case and is not available for exercise generally in future cases.

I think the hon Member then expressed some concern about the wording of sub-section (6). I do not agree that his observations in respect of this is correct but in any case, I would be very reluctant to amend it because of course one thing is for the Government to say, 'here are 450 residents of Gibraltar who have a claim and who cannot afford to have their day in court because they cannot afford it' and for the Government to say, 'okay, let us have some public funding of that'. But of course the Government are not as some of these statements made by the hon Member a moment ago, in my view began to do, pre-judge the rights and obligations of the parties, that is for the courts to do so. When the Government provide funding, the Government are not saying, 'We are providing funding because we think you are right and we think you have been the victim of mis-selling and because we think these people are dreadful'. It would be quite improper for the Government in litigation publicly in this House, let alone in legislation, to set themselves up as the judge of the respective rights and obligations and the merits of the party in the case. So because the Government wanted to be certain that they were being neutral in their language to the plaintiffs and the defendants in litigation, it is not for Governments to interfere with the litigation of other peoples' rights and take sides, we have cleared this language with the solicitor representing both the intermediary in question and the Group Litigation Order, to make sure that the language did not suggest a pre-determination of the issues. Let me just add also to that, the hon Member says sold in Gibraltar, no, not sold in Gibraltar, some of these TEP Plans were not sold in Gibraltar, some of these TEP Plans were sold in the UK on powers of attorney and all sorts of other things. They were not all sold in Gibraltar. Even the use of the word 'sold' is potentially both judgemental, which I have just said the Government are not willing to do, and prejudicial to the TEP Plan holders because one of the issues in the litigation was who was the seller. What was the role of the financial intermediary? Was he a broker? Whose product was this? Was this a product sold by the local

intermediary or was it sold by another company in England with a local broker? So even the use of the word 'sold' is prejudicial and judgemental, both in fact, and therefore serves the interests of neither party. So this formula of words has been agreed, or has been arrived at in a meeting I have had over lunch with two of the hon Member's colleagues at the Bar. I say his colleagues at the Bar because as he knows I am suspended from practice whilst I hold this job, and therefore they have all been marketed in Gibraltar. Some of them may have been sold in the UK but marketed in Gibraltar is a common denominator for all of them, and the use of the word 'marketed' does not allow the banks to say, 'ah, well, that is not me because I did not sell this'. Never mind, the question is not who sold them the question is, is this a TEP Plan? Was it marketed in Gibraltar by an intermediary? We do not want to use language which either pre-judges, prejudices or allows anybody off the hook by virtue of the language that we use. So I am not going to accept the hon Member's invitation to revisit it because it would mean that we could not pass this legislation today, because I would then have to go back and confer and it is important that we do this before the Summer Recess so that the cases can continue. If time should tell that there is some deficiency in this wording, we can always amend the legislation in the autumn, but I think the important thing is to get it out. I am very confident that there is no deficiency but if there were it can be fixed at a later date.

I think all the actions that have been commenced are legally assisted actions and one of the three legally assisted is now not legally assisted but he was at the time that he issued the writ. So he did not pay the fee. The other question is the reference to the numberings. Well, this has been drafted by practitioners who are involved in practice, I do not know what the effect of just making a general reference to the Civil Procedure Rules is as opposed to these specific references, so I am not prepared to agree on the move. But if the hon Member's concern is that by renumbering these references may end up being inaccurate, then that could be. I think it is a rather far fetched concern because that is true of almost every statute in Gibraltar that cross-refers to other legislation or to other section numbers in

the same legislation. But if it were thought by the House to be worthwhile accommodating the possibility that what is today Part 19 rule 10 may become Part 19 rule 11 because the day after tomorrow the judge introduces a new rule 10 and all the subsequent ones are renumbered 11, 12, 13, that could be addressed by a much simpler means which would be to say something like, 'as defined in Part 19 rule 10 of the Civil Procedure Rules' or 'such provisions as may be renumbered from time to time'. That would deal with the accuracy of the reference number point. So if the hon Member wanted to raise it at the Committee Stage.....

HON F R PICARDO:

The only concern that I have in dealing with it in that way, is that of course when we are dealing with national legislation we know when we are renumbering things and our draftsmen tend to know that there is a cross reference to it et cetera. But these amendments would not be done in this House they would be done in London when the Civil Procedure Rules book is issued year on year. Somebody who will look at this, it may be fairly hypothetical now that we have got the rule 6 which says it is only for the TEP Plan holders, but say three years from now the cases may not be finished and the rules have moved on considerably, one would have to go back to what the rules numbering was in 2005 at the time that we did the legislation.

HON CHIEF MINISTER:

So be it. I am not, in the interests of housekeeping, I am not willing to risk passing legislation with inconsequences that I have not had an opportunity to contemplate or be advised on. It would be silly for the Government to eliminate the references to these particular numbers and find that the consequences of having done so is that it has hugely broadened the effects of what it is doing, all in the name of housekeeping in the event that there is some renumbering. The hon Member is not worried

about the rules themselves changing but the same rule coming to have a different number. Fine, I have indicated to the hon Member the extent to which we can accommodate his concerns. If that is enough for him fine, if it is not he will just have to accept that we cannot go further than that on this notice. A huge amount of care has been taken by others, it has to be said, into drafting this legislation and it has been discussed and I would not wish to introduce any amendment which might alter, unwittingly, the effect of the legislation. Therefore, subject to those amendments, I hope the House will agree that this is timely assistance to a worthy group of people. I Commend the Bill to the House.

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.

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 Legitimacy (Amendment) Bill 2005;
2. The Terrorism Bill 2005;
3. The Market Abuse Bill 2005;

4. The Legal Aid and Assistance (Amendment) Bill 2005;
5. The Prospectuses Bill 2005;
6. The Companies (Taxation and Concessions) (Amendment) Bill 2005;
7. The Financial Services (Collective Investment Schemes) Bill 2005;
8. The Employment (Amendment) Bill 2005;
9. The Medical and Health (Amendment) Bill 2005;
10. The Pollution Prevention and Control (Amendment) Bill 2005;
11. The Companies (Amendment) Bill 2005.

THE LEGITIMACY (AMENDMENT) BILL 2005

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

THE TERRORISM BILL 2005

Clauses 1 to 24 – were agreed to and stood part of the Bill.

Clause 25

HON CHIEF MINISTER:

This morning during my second reading address to the House I drew the House's attention to the provisions of Clause 25(5). Clause 25 deals with inciting terrorism outside Gibraltar and I pointed out that sub-clause 5 read, 'nothing in this section

imposes criminal liability on any person acting on behalf of or holding office under the Crown'. I expressed the view that that had to be some sort of mistake because it meant that no Civil Servant, even when they were acting on a frolic of their own, could be guilty of inciting terrorism. In other words, Civil Servants in Gibraltar were free to incite terrorism abroad without being guilty of this offence. In fact it is not an error, the very same provision is contained in the UK Terrorism Act, which says, 'inciting terrorism overseas at section 59 of the Terrorism Act 2000', and it is exactly the same sub-section. 'Nothing in this section imposes criminal liability on any person acting on behalf or holding office under the Crown.' We have researched the Home Office interpretation paper of the legislation and what that means and it is the closest I have come across to admission of the existence of things that I had always thought were officially denied. But there again, far be it for me to stray into these highly difficult and complex areas. I do not propose to the House that we should adopt this language in Gibraltar because the UK has this provision, I would propose to this House an amendment, because quite apart from what one might think about whether the Crown has people who do these things on their behalf or not, in my opinion it has to be a mistake in England.

It is some time since I stopped assuming that everything that the UK does and is printed in an English book is necessarily right. Very often it is just the fact that they have not thought about it enough. In their ordinary meaning in the English language this means not that it is okay if one does it on behalf of the Crown but that provided one holds office under the Crown it does not matter even if it is a frolic of ones own. So I do not know if anybody here, The Attorney General holds office under the Crown, does that mean that he cannot be guilty of inciting terrorism outside Gibraltar, even if he is not acting officially? Even if he just goes rotten on us and he just becomes a free agent, a rogue agent, it cannot mean that. It is absurd to suggest that even in a statutory provision that is intended to provide cover for people when they are doing things officially pursuant to their jobs under the Crown, that such protection is

available to them even when they are acting on their own, as a frolic of their own, contrary to the instructions – it cannot mean that but that is what it says because they are not cumulative they are alternative. So it is either acting on behalf of or holding office under the Crown. So if one is holding office under the Crown one does not need to be acting on behalf of the Crown one can be acting on ones own account. I refuse to believe that that is the intention of the UK legislature and therefore I am not willing to blindly transpose it into the laws of Gibraltar. What I propose is that we make them cumulative. That we say, 'nothing in this section imposes criminal liability on any person holding office under, and acting on behalf of, the Crown.' So both things must be present. In other words, one has got to be holding an office under the Crown and acting officially on behalf of the Crown. Not holding office under the Crown and acting on a frolic of ones own, which is the effect of the English language. So I propose that sub-section (5) be amended so that it reads instead of 'or holding office under the Crown' the word 'or' should be 'and' and also adding the words 'on behalf of'. So the new sub-section (5), as appears in a letter which I believe has been circulated, should read: '(5) Nothing in this section imposes criminal liability on any person holding office under, and acting on behalf of, the Crown.' So if someone wants to incite terrorism abroad he has to get instructions from the Crown.

HON F R PICARDO:

If I could just say, I am delighted to see that we are now coming to accept that there are some things in English legislation which we can do better. The Chief Minister has previously when I have made suggestions in this House to amend wording from English legislation which is seen suspect so that if it has passed muster in the House of Commons and the House of Lords it must be good enough, but I am pleased to see that, the Chief Minister now.....

HON CHIEF MINISTER:

I am sorry I cannot let the hon Member get away with it. He who is so keen on always being accurate in the House and on points of order and all of that, cannot say things which are not true. I have never said that things are okay just because they are in UK legislation. What I have said is that on occasions I have said that when UK legislation provides a regime which the Gibraltar Government have decided as a matter of policy to replicate, there is no advantage in departing from the language of the Gibraltar just because the hon Member makes a proposal. But when there are occasions when the Gibraltar Government believe that there is something wrong in UK legislation, he has never once heard me say, notwithstanding the fact that when I think there is something wrong in UK legislation I nevertheless think that we should copy it because of the great metropolitan power can do no wrong. I am sorry those are two wholly different things, so we can certainly retire to tea afterwards but not on the basis of the record in Hansard as he has chosen to leave it.

Clause 25, as amended, was agreed to and stood part of the Bill.

Clauses 26 to 31 – were agreed to and stood part of the Bill.

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

THE MARKET ABUSE BILL 2005

Clauses 1 to 6 – were agreed to and stood part of the Bill.

Clause 7

HON F R PICARDO:

The Chief Minister may recall that at the Second Reading, he said he was going to move something in relation to section 7.

HON CHIEF MINISTER:

I think the hon Member has a presentational point in that it does not look good for two sections of any legislation to have the same heading even though the headings do not form part, as he knows, as a matter of statutory interpretation rules does not form part of the text or even in interpretation aid. Nevertheless, it is not good practice. The way we propose to deal with it is the answer to his other concern with which we do not agree, because there is not duplication of cover by section 7 and by section 34. In other words, the two sections, albeit that they could do with having different titles, do not cover the same ground. Section 7 relates to market abuse; section 34 relates to investment recommendations only and therein lies the solution to the labelling issue. We are going to propose that we change the heading of section 7 to read “Territorial scope – Market abuse” and in section 34 the heading should be “Territorial scope – Investment recommendations”. But there is no substantive duplication of cover of grounds so to speak. In other words, we cannot do away with one or other of these. So I suppose the amendment at this point, section 7 is, add “- Market abuse” at the end of the Title “Territorial scope”.

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

Clauses 8 to 33 – were agreed to and stood part of the Bill.

Clause 34

HON CHIEF MINISTER:

I move the following amendment. Delete the heading of clause 34 and insert, "Territorial scope – Investment recommendations."

Clause 34, as amended, was agreed to and stood part of the Bill.

Clauses 35 and 36 – were agreed to and stood part of the Bill.

Clause 37

HON CHIEF MINISTER:

Here the hon Member asked me to consider whether it is appropriate for the Minister to give information on oath to a Justice of the Peace in pursuit of a summons for a warrant or rather on pursuit of an application for a warrant. Well, the Government's view is that there is nothing wrong with it, the Minister does not have to do it but if he wants to do it so be it. Nor do I think that there is any great need for it to happen. So much as I regret depriving myself of the enjoyment of being cross-examined by him should the need ever arise, I would almost certainly get my warrant on the basis of the likely outcome of that bout, we could avoid the issue by just deleting the words "by or". "Satisfied on information on oath given on behalf of the Minister or the competent authority". So some official could do it on behalf of the Minister, that would be fine it does not have to be the Minister himself. That means that some official can be cross-examined instead of the Minister.

HON F R PICARDO:

I think that although the disappointment is mutual, the words deleted achieve the aim.

HON CHIEF MINISTER:

In sub-clause (1) delete the words "by or" appearing in the second line. In sub-clause (4) after "authorise" insert "a constable or other person authorised by". In other words, it is not the competent authority that does the entering, it is either a person authorised by the competent authority who might be a constable if it is to be done by the police, or some member of his staff or somebody else.

Clause 37, as amended, was agreed to and stood part of the Bill.

Clauses 38 to 43, the Schedule and the Long Title – were agreed to and stood part of the Bill.

THE LEGAL AID AND ASSISTANCE (AMENDMENT) BILL 2005

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

Clause 2

HON CHIEF MINISTER:

I wonder whether having explained in detail already all the amendments to the Legal Aid and Assistance Bill, the hon Members could just take them as explained. They are set out in the letter and we could just vote on the Bill as amended in accordance with the letter.

HON F R PICARDO:

Just one thing, we know that the Chief Minister has told us that this has taken considerable time and very careful drafting by colleagues at the Bar et cetera, and he knows that these

punctuation points are not to be laid but can I just point out that at the end of (c) there should be a semi colon and not a full stop and the end of (d) there is neither a full stop or anything and it should be a semi colon.

HON CHIEF MINISTER:

Certainly punctuation is normally cleared up without the need to amend, but on that basis at the end of (c) there should be a semi colon and not a full stop; at the end of (d) there is nothing and there should be a semi colon; and if we are going to tidy up punctuation across the floor of the House I suspect we should do them all and not just the ones that the hon Member spots.

So in sub-clause (3) insert “or is to be” after the words “legally assisted person whose claim is”;

In sub-clause (3)(a) after the words “individual costs incurred in a” insert “legally assisted”;

In sub-clause (3)(b) after the words “entered on the group register for the GLO” insert “attributable to GLO issues (but not individual issues)”;

In sub-clause (3)(e) insert the word “had” before the words “legal assistance” in the first line;

Insert new sub-clauses (5) and (6) as follows:-

“(5) For the purposes of sub-section (3) a person such as is described in sub-section (3)(e) shall be deemed to be a legally assisted person”.

“(6) Sub-sections (3), (4) and (5) of this section shall only apply to claims relating to or arising from Traded Endowment Plans marketed either alone or together with others in Gibraltar prior to the 1st January 2005 by a financial intermediary licensed in Gibraltar under the Financial Services Ordinance.”

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 PROSPECTUSES BILL 2005

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

Clause 2

HON CHIEF MINISTER:

I indicated this morning that there was a defined term missing in clause 2 and it is the definition of “offering programme” that the hon Members will see in the letter with the amendments. That definition is drawn directly from the directive.

After the definition of “offer of securities to the public” insert:

“offering programme” means a plan which would permit the issuance of non-equity securities, including warrants in any form, having a similar type and/or class, in a continuous or repeated manner during a specified issuing period;

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

Clauses 3 to 5 – were agreed to and stood part of the Bill.

Clause 6

HON CHIEF MINISTER:

In clause 6(4)(e), as I indicated, delete the words “cannot exceed” and insert in their place “is less than”.

Clause 6, as amended, was agreed to and stood part of the Bill.

Clause 7

HON CHIEF MINISTER:

In clause 7(2) the word “Member” is missing in front of the word “State”.

HON F R PICARDO:

During the Second Reading the Chief Minister indicated that he would consider the point made in relation to 7(1) and whether language could be brought to say with greater clarity and objectivity where the procedure for application was going to be.

HON CHIEF MINISTER:

Yes, I would be happy to change those words “as the competent authority may require” for words “as the Minister may prescribe by notice in the Gazette.”

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

Clauses 8 to 10 – were agreed to and stood part of the Bill.

Clause 11

HON CHIEF MINISTER:

Clause 11(2), the reference to ‘section 16’ should be replaced by a reference to ‘article 8(2) of the prospectus directive.’ The prospectus directive is a defined term.

Clause 11, as amended, was agreed to and stood part of the Bill.

Clauses 12 to 20 – were agreed to and stood part of the Bill.

HON F R PICARDO:

During the course of the Second Reading one of the issues I raised was because the competent authority here is the Minister, even if only for a few moments, then he is going to be the party who will determine whether there has been a breach and whether the penalty should be imposed. I asked rhetorically whether we wanted a politician, it may not be him for very long or it may be him for the next 50 years, but do we want a politician being the person who determines whether there was a breach or not? He did not answer me but do I take that the answer is simply that we are doing this in the way we are doing for the reason he explained and that in any event it is not going to be a Minister for very much longer?

HON CHIEF MINISTER:

Exactly. As soon as these things happen we can amend. There is going to be a need to amend this legislation for the reasons that I explained earlier about some stock exchange projects. By then I suspect all of these things will either have happened or will not need to be taken into account, and we will then amend to remove the reference to Minister as being the competent authority. It is highly unlikely that any of the powers will have to be exercised by the Minister before that. In any case, do I not have the powers to delegate? I think the Minister will certainly delegate any functions that he will have to exercise between now and then which involves making decisions about enforcement.

Clauses 12 to 20 – were agreed to and stood part of the Bill.

Clause 21

HON CHIEF MINISTER:

Clause 21 relates to setting of fees. I have given notice of an amendment to delete “the competent authority” and substitute it by “Minister”. In all financial services legislation, fees are set by the Government and not by the FSC. That is important because it means that the level of fees can be set directed to Gibraltar’s economic interests and not by reference to a regulator’s desire to raise fees for the regulator. As the hon Members know any attempt to distribute the real cost of regulation between the first one or two petitioners is almost certainly to prevent the sector from taking off because no one is going to come into the investment services if they have to pay in year one the full cost of regulation. So it is important that the macro economic issues such as that are taken into account and in fact, this would be the only Ordinance in which the regulator has the power to set fees.

Clause 21, as amended, was agreed to and stood part of the Bill.

Clause 22 – was agreed to and stood part of the Bill.

Clause 23

HON CHIEF MINISTER:

In sub-clause (1) the word “person” should be in the singular and not in the plural.

Clause 23, as amended, was agreed to and stood part of the Bill.

Clauses 24 to 28 – were agreed to and stood part of the Bill.

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

Schedule 4

HON CHIEF MINISTER:

At the very beginning of Schedule 4, the reference to “section 6(3) in the semi-margin should be a reference to “section 4(1)”.

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

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

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

**THE COMPANIES (TAXATION AND CONCESSIONS)
(AMENDMENT) BILL 2005**

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

Clause 2

HON CHIEF MINISTER:

In clause 2 as I explained earlier it is not “£550” it is “£450”.

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 FINANCIAL SERVICES (COLLECTIVE INVESTMENT
SCHEMES) BILL 2005**

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

Clause 2

HON CHIEF MINISTER:

In clause 2 this is a correction of an erroneous cross-reference of which I have not given written notice. At clause 2(1) in the definition of "EIF Regulations" on page 603 it says, "EIF Regulations" means the Experienced Investor Fund Regulations made under section 33". In fact, section 33 is not the right section number and it should be section 52. It is section 52 that is the enabling section that allows regulation, so it is just the wrong number referred to there. So "33" should read "52".

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

Clauses 3 to 48 – were agreed to and stood part of the Bill.

HON CHIEF MINISTER:

There is an amendment I was going to move. "PART VIII" should read "PART VII". (a) Because it follows PART VI; and (b) because there is no PART VIII.

The amendment was agreed to.

Clauses 49 to 58, Schedules 1 and 2 and the Long Title – were agreed to and stood part of the Bill.

THE EMPLOYMENT (AMENDMENT) BILL 2005

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

THE MEDICAL AND HEALTH (AMENDMENT) BILL 2005

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

THE POLLUTION PREVENTION AND CONTROL (AMENDMENT) BILL 2005

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

THE COMPANIES (AMENDMENT) BILL 2005

Clauses 1 to 3 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 Legitimacy (Amendment) Bill 2005; the Terrorism Bill 2005, with amendments; the Market Abuse Bill 2005, with amendments; the Legal Aid and Assistance (Amendment) Bill 2005, with amendments; the Prospectuses Bill 2005, with amendments; the Companies (Taxation and Concessions) (Amendment) Bill 2005, with amendments; the Financial Services (Collective Investment Schemes) Bill 2005, with amendments; the Employment (Amendment) Bill 2005; the Medical and Health (Amendment) Bill 2005; the Pollution Prevention and Control (Amendment) Bill 2005; and the Companies (Amendment) Bill 2005, have been considered in Committee and agreed to with amendments. I now move that they be read a third time and passed.

Question put. Agreed to.

The Bills were read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House sine die.

Question put. Agreed to.

The adjournment of the House sine die was taken at 4.55 pm on Wednesday 27th July 2005.

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

The Seventh Meeting of the First Session of the Tenth House of Assembly held in the House of Assembly Chamber on Thursday 13th October 2005 at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

GOVERNMENT:

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

ABSENT

The Hon P R Caruana QC – Chief Minister
The Hon Dr B A Linares – Minister for Education, Training, Civic and Consumer Affairs
The Hon Miss M I Montegriffo

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 25th April 2005, were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

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

1. Consolidated Fund Reallocations – Statement No. 15 of 2004/2005;
2. The Accounts of the Government of Gibraltar for the year ended 31st March, 2004 together with the Report of the Principal Auditor thereon.

Ordered to lie.

PERSONAL EXPLANATION

The Hon Fabian R Picardo informed the House that he had resumed his partnership in Hassans International Law Firm as from Monday 25th April 2005 and therefore declared his interest as a partner in Hassans and its associated companies.

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 5.40 pm.

The House resumed at 6.05 pm.

Answers to Questions continued.

ADJOURNMENT

The Hon the Minister for Trade, Industry, Employment and Communications moved the adjournment of the House to Friday 14th October 2005, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 8.10 pm on Thursday 13th October 2005.

FRIDAY 14th OCTOBER 2005

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

GOVERNMENT:

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

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 – Attorney General
The Hon T J Bristow – Financial and Development Secretary

The Hon Miss M I Montegriffo

IN ATTENDANCE:

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

ANSWERS TO QUESTIONS (CONTINUED)

The House recessed at 1.10 pm.

The House resumed at 2.45 pm.

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

THE STAMP DUTIES (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

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

Question put. Agreed to.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Wednesday 9th November 2005, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 5.05 pm on Friday 14th October 2005.

WEDNESDAY 9TH NOVEMBER 2005

The House resumed at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

GOVERNMENT:

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

ABSENT

The Hon Miss M I Montegriffo

IN ATTENDANCE:

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

DOCUMENTS LAID

The Hon the Financial and Development Secretary laid on the Table the Consolidated Fund Supplementary Funding – Statement No. 1 of 2005/2006.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

SECOND READING

THE STAMP DUTIES (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a very short Bill which introduces one aspect of the proposed reforms of the Stamp Duties Ordinance.

In my budget speech I announced wider reforms of the Stamp Duties Ordinance and a Bill will be coming to the House later for that but this particular measure, which has been advanced in the form of this short Bill because it is pressing for the finance centre sector, deals only with the abolition of ad valorem duty on share capital of companies both on creation and on increase of share capital. Hon Members may know that at present the share capital on companies is ad valorem, it is one of the items in the schedule to the Stamp Duties Ordinance and that it is payable at the rate of 50p per £100 or part thereof. In future, if this House passes this Bill, the stamp duty will be levied at a flat rate of £10 not ad valorem and this is one of the series of measures announced to facilitate the continuation of business in the finance centre that was being done through other channels before. So we do not envisage a material reduction in revenue from this. I commend the Bill to the House.

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

HON F R PICARDO:

The Opposition will be supporting this Bill. There are a number of other measures announced in respect of stamp duty which we noted had not been included in this Bill and we are grateful that clarification has now been provided that another Bill is to come soon to deal with those issues in order to continue to provide efficacy to the Finance Centre which may not be there given the provisions as to the phasing out of exempt companies. There are other things that we can and should be doing in order to lend efficacy apart from dealing with issues like the ones of stamp duty which have already been identified. For example, one that also springs to mind is the issue of whitewash procedures in respect of companies buying their own shares et cetera, all of which issues would also be of assistance and which make Gibraltar companies perhaps less agile than they could be. For all those reasons we will be supporting this Bill and continuing to

spur the Government on to take such other measures as we think are appropriate from time to 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 PUBLIC HEALTH (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill to amend the Public Health 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, hon Members are about to be circulated with a letter and although the formal amendments will be moved at the Committee Stage, they are drafting amendments mainly, but I think it would be useful for hon Members since it is such a short Bill anyway, I think it is better for them to have as we debate the principles of the Bill the proposed amendments in front of them. The Bill now before the House is one of a number

that the Government have published or will shortly be publishing to implement measures announced in my budget statement earlier this year. In the instant case the Bill implements the policy that, as announced in the Budget, premises occupied by clubs, associations and societies that do not operate on a commercial for profit basis will be exempt from rates and also that the existing 20 per cent discount for early payment of commercial rates is cut in half, in other words, the size of the discount is reduced from 20 per cent to 10 per cent.

The Bill which as amended, if I could just talk the hon Members through the amendments so that they can better understand the principles of the Bill, the first amendment relates to the commencement procedures so the section relating to the clubs and associations rates exemption will be deemed to have come into effect on 1st July 2005. The heart of the Bill which we will now debate to introduce the reduction in commercial rates early payment discount, that will come into effect with effect from 1st October, and I will explain in a moment why that is, and those commencement provisions are effected by the introduction of the amendment to clause 1 set out at paragraph 1 of the letter which adds sub-sections (2) and (3) to the Title and Commencement clause of the Bill. Moving to the substantive parts of the Bill, the Bill amends section 279 of the Public Health Ordinance which provides for premises that are exempt from assessment. In other words, this is not a question of applying but rather premises that fall into that category are exempt from assessment to rates as opposed to the other section, section 282, where premises which are prima facie assessable are allowed to apply to the Financial Secretary for a reduction and hon Members will have seen in the Gazette annually some people get 100 per cent reduction, other people get 50 per cent or other percentages. That is not the list that we are amending here, the list that we are amending here is the list of section 279 which is total exemption from assessment. Section (k) would as amended read, "such premises occupied by such club, association or society not established or conducted for profit as may be approved by the Chief Secretary in accordance with the criteria laid down for that purpose from time to time by the

Government of Gibraltar". So the way that it is envisaged that that would work is that the Government would lay down policy criteria about the nature of the club. So the Government for example, just speculating and by way of example might say 'members' clubs with more than a certain minimum number of membership, or leisure clubs, or art associations or this or that, setting out the criteria, this regime is not unfamiliar, and then the Chief Secretary would then decide whether a particular rate-payer falls or does not fall, in the case of doubt many of these things will be cleared beyond doubt but in the case of borderline cases it will be up to the Chief Secretary at an administrative level to decide whether it falls or does not fall within the policy criteria established by the Government. The other amendment, the reduction of the rates early payment or timely payment as opposed to early payment discount, is effected by an amendment to section 277A of the Ordinance simply by substituting the figure "20 per cent" for the figure "10 per cent".

I said to the hon Members that I would explain why the different commencement dates for the two sections of the Bill. Well, the one about clubs and associations 1st July to take the benefit of the budget measure back to the beginning of the financial year or the rates period commencing nearest to the date of budget measure announcement. In the case of the choice of 1st October as the date for commencement of the reduction of the early payment discount, the reason for that derives from the mechanics of section 277 which is that if one pays the current bill on time one becomes entitled to a discount from the next bill. Well, the bills issued in July are already out so people will get a discount from those bills depending on whether they paid the previous bill on time, so we cannot affect peoples' rights retrospectively on that. The discount against the July bill has already been earned, it is earned depending on whether one has paid the previous quarter's bill on time. The effect of putting 1st October here is that if one pays the current quarter bill on time, and people have been warned in the previous bill that this was coming, if one pays the current bill that was recently issued on time one will get from the next bill, in other words the bill issued for the quarter commencing 1st October, one would get

from that bill a 10 per cent rather than a 20 per cent discount. That is the need of that in order to recognise the fact that if one would like the discount it is on a succeeding quarter basis rather than a current quarter basis, hence the need to also stagger the commencement date referred to in this section. I commend the Bill to the House.

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

HON L A RANDALL:

The Bill proposes two amendments to the Public Health Ordinance. The Opposition would have no problem in supporting amendments to section 279, although we would be interested to have details of the policy criteria which the Government intend to adopt. However, with regard to the amendment to section 277A the Opposition see no valid reason why it should change the position adopted in 1997 when the 20 per cent reduction on rates due on non-domestic or commercial properties was introduced. We will therefore be abstaining on the Bill.

HON CHIEF MINISTER:

The policy criteria are yet to be defined in precise detail but of course the hon Member should not think that the formula in accordance with policy criteria to be established by the Government is new or that even we have invented it, it is already in the Ordinance and they invented it when they were in Government. The wording is drawn directly from section 271 of the Ordinance which reads, 'the Financial and Development Secretary may, in accordance with the criteria laid down for that purpose from time to time by the Government of Gibraltar, reduce or remit the payment of any general rate et cetera'. So the hon Member was not suggesting that it was not new, I accept, but I just wanted him to know and could perhaps have

mentioned this in my first address, that the formula of words, the concept, is borrowed from an existing section of the rates provisions of the Public Health Ordinance and is not a new formula or a new concept. These criteria will have to be given a degree of publicity because obviously people need to understand whether they would fall within it or not fall within it. I cannot tell him what they are now but they will have to receive a sufficient degree of publicity, at least for people to know whether they are intended beneficiaries or not intended beneficiaries and then, as always when a line is drawn, there are unenvisioned grey, borderline cases that will have to be adjudicated upon and hence the need for the Chief Secretary to do that. I hear the political opposition from the political Opposition to the other measures contained in this Bill and I suppose there is no reason why Oppositions should express support for things that are unpopular in any sector of the community. After all, there is no need to incur anybody's displeasure so why incur it, except that I would mention that this is not a measure that enjoyed the support of the hon Members when it was introduced and indeed I recall that for many months after the measure was introduced, the Hon Albert Isola then a Member of the Opposition benches in the party, was constantly taunting the Government about how it was wrong to have given this what they called 'discount' or 'rates reduction' as they used to call it, without giving it to residential properties as well. This was not a measure that the Opposition Members supported. They may not have voted against it, I do not recall, they say they abstained, I accept that if that is what they say, their memory on it is better than mine, abstaining means did not support. Well, if they did not support the measure then they would not support it now on the basis that even 10 per cent is too high. I thought they were not supporting it on the basis that they did not think it should come down from 20 per cent to 10 per cent. I understand, the hon Members want us to reduce it to zero. I commend the Bill to the House again.

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 A Bruzon
The Hon Dr J J Garcia
The Hon S E Linares
The Hon F R Picardo
The Hon L A Randall

Absent from the Chamber: The Hon R R Rhoda

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 INVESTOR COMPENSATION SCHEME (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill to amend the Investor Compensation Scheme Ordinance 2002, 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 very short and simple Bill the sole effect of which is to recognise the fact that Ministerial responsibility for the Finance Centre no longer rests with the Minister for Trade and Industry, and the new legislative technique that we are trying to introduce to avoid Bills falling out of date, so to speak, or legislation becoming inaccurate when Ministerial portfolios change hands is to describe the Ministerial responsibility rather than the title of the Ministry. So for example, here it said the Minister for Trade and Industry, assuming that the Minister for Trade and Industry would always be responsible for the Finance Centre or it would always be responsible for something else. If this were a new Ordinance it would say 'the Minister with responsibility for Financial Services' because that could be any one of the eight Ministers and it would not render the legislation in need of amendment. I think that is a better drafting technique which we are trying to apply. For now this Bill did not comply with that and therefore I commend the Bill to the House which implements that policy and substitutes references to 'Trade and Industry' with a reference to 'Financial Services'. 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 at a later date.

THE INSURANCE COMPANIES (AMENDMENT) (NO. 2) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Insurance Companies Ordinance 1987 in order to make amendments consequent on the consolidation and repeal of Council Directives 79/267/EEC, 90/619/EEC and 92/96/EEC by Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance, 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 as hon Members now know, transposes Directive 2002/83 of the European Community and of the European Parliament and of the Council of November 2002. The directive actually imports no new law into the fabric of the existing directives, its purpose is merely to consolidate three directives, the so-called life assurance directives, all of which are already transposed into the law of Gibraltar. The effect of this consolidating directive and of this Bill to transpose it is to consolidate them into one and all of the amendments, except one which I will point out to the hon Members in just a moment, simply are housekeeping consequential. In other words, it changes references, it corrects cross-references and things of that nature but does not alter the substantive law relating to the regulation or any other aspect of life insurance in Gibraltar. The one exception to that is clause 12 amending section 118 which hon Members will find on page 664 of the Bill,

which amends section 181 by substituting for 'Government', 'Minister with responsibility for Financial Services' in the exercise of that power. That itself does not change the law hugely because where it says 'Government' that power normally would be exercised for the Government by the appropriate Minister but this responds to the Government's drafting decision that the references would be directly to the Minister with the appropriate responsibility. I commend the Bill to the House, which as I say makes the necessary textual amendments to the Insurance Companies Ordinance so that that Ordinance refers to the consolidated directive and correctly cross-refers to the new numbered articles of a consolidated directive, rather than as at present the Insurance Companies Ordinance does, refers to three separate directives which now have been consolidated into this new one. 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 later today.

Question put. Agreed to.

THE COMPANIES (CONSOLIDATED ACCOUNTS) (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Companies (Consolidated Accounts) Ordinance, 1999 in

order to ensure the effective application of, and implement Member State options in, EC Regulation No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards; and to implement into the law of Gibraltar Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and 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, hon Members will have seen from their perusal of these Bills that really this goes hand in hand with the next Bill on the Order Paper which is a Bill to amend the Companies (Accounts) Ordinance. Here we are talking about a Bill to amend the Companies (Consolidated Accounts) Ordinance so this deals with the consolidated accounts aspects of this European Regulation. Hon Members will be aware that this Bill is to transpose into the laws of Gibraltar to the extent that our legislation needs to reflect the mechanisms to give effect in Gibraltar to a European Union Regulation. The Regulation itself has direct application. The International Accounting Standards Regulation, as Regulation No. 1606 of 2002 is known, applies directly to the consolidated accounts of EU publicly traded companies. Under article 4 companies whose securities are admitted to trading on a regulated market in any Member State will be required to prepare their consolidated accounts on the basis of accounting standards issued by the International Accounting Standards Board, known as the IASB, that are adopted by the European Commission. This will apply to financial years commencing on or after 1st

January 2005. Under article 5 of the IAS regulation, use of adopted international accounting standards, IAS, can be extended on a permissive or mandatory basis, that is a Member State option, to consolidated accounts of companies other than those covered by article 4. In other words, drawing up ones consolidated accounts under IAS standards is compulsory for quoted companies but each Member State, and therefore in the case of Gibraltar this House, may choose whether to make it also compulsory for non-quoted companies or permissive, in other words, one may prepare it on that basis or on the existing basis for non publicly quoted companies.

The Bill before the House proposes that Gibraltar companies would be permitted, that is to say Gibraltar non-quoted companies, will be permitted to choose whether to switch to IAS or to continue to prepare their accounts in accordance with domestic law. In other words, the Government have chosen to exercise the option under the directive to make IAS standards for consolidated accounts permissive but not mandatory in the case of non-quoted companies. The Bill also transposes the so-called modernisation directive which amends the accounting directives and this modernisation directive is designed to (a) remove conflicts between the accounting directives and international accounting standards in existence at the time it was drawn up. In other words, where there is tension between the existing accounting directives and this international accounting standards implementation measure, the modernisation directive clears up that tension; (b) to ensure that optional accounting treatments currently available under International Accounting Standards in existence at 1st May 2002, are available to EU companies which continue to have the accounting directives as the basis of their accounts. That is, those companies which will not prepare their accounts in accordance with IAS regulations. In other words, it would be unfair if companies that switched to IAS have the benefit of some options which were denied to companies that did not switch to IAS and this particular measure makes sure that there is harmonisation between those top and those that do not in those particular aspects.

Turning then to the specific provisions of the Bill, clause 1 provides for citation and commencement, it states that the Bill has effect as regards companies' financial years which begin on or after 1st January 2005 but which have not ended before the date of publication of the Ordinance once passed. Clause 2 states that the Bill amends the Companies (Consolidated Accounts) Ordinance 1999. Clause 3 amends the Long Title. Clause 4 amends section 1(2) of the Ordinance so that it states on its face that the provisions of the Bill have effect as regards companies' financial years which begin on or after 1st January 2005 but which have not ended before the date of publication of the Ordinance. Clause 5 amends section 2(4) to implement article 2(1) of the Modernisation Directive which is designed to align the seventh directive with international accounting standards requirements. Under IAS 27 an undertaking is a subsidiary undertaking if it is controlled by a parent irrespective of the existence of an interest in the capital of the undertaking. The current requirement for a participating interest to exist is removed. Clause 8 inserts certain new definitions which flow from the IAS Regulation and the Modernisation Directive. Clauses 9 and 10 replace section 7 with new sections 7 and 7A, and insert new section 7B and 7C respectively. The new sections 7(2) and 7(3) reflect the fact that publicly traded companies will be required to prepare their consolidated accounts in accordance with adopted IAS standards. It also provides that non-publicly traded companies can choose to prepare their consolidated accounts in accordance with either the Ordinance or with adopted IAS standards. In the interests of consistency and comparability sections 7(4) and 7(5) provide that companies choosing to prepare their accounts under IAS must continue to do so in subsequent financial years. In other words, one cannot change between one system and another. However, this requirement will not apply if a company preparing accounts under IAS becomes a subsidiary of an EEA undertaking which prepares accounts on a non-IAS basis. To aid users of accounts, new section 7B provides that companies preparing accounts under IAS must disclose this fact in the notes to the accounts.

New section 7C provides that parent companies shall, in most circumstances, ensure that the individual accounts of the parent company and the individual accounts of subsidiary undertakings, where these are required to be prepared within the group, are prepared using the same financial reporting framework unless there are good reasons for not doing so. However, this does not apply to the individual accounts of subsidiaries where the parent company is required by the IAS Regulations to adopt IAS for its consolidated accounts and has chosen to do so for its individual accounts. Clause 12 inserts new section 8A in order to implement an option in article 11 of the seventh directive not hitherto exercised. Article 11 gives Member States an option to exempt an intermediate parent company governed by its law from the requirement to prepare consolidated accounts, if that company is a subsidiary of another undertaking not governed by the law of an EEA State, provided that certain conditions are fulfilled. Making use of this option will align the exemptions from preparation of consolidated accounts more closely with those in IAS 27. One of the more important conditions for the exemption contained in new section 8A is that the higher parent company presents consolidated financial statements in a manner equivalent to the seventh directive. In most circumstances financial statements prepared on the basis of IAS would meet this equivalence condition. The new exemption will be restricted to wholly-owned intermediate parent companies to be consistent with IAS 27. Clause 13 implements article 2.6 of the Modernisation Directive which deletes article 14 of the seventh Accounting Directive. Article 14 had provided for the exclusion of an undertaking from the consolidated accounts of the parent if its activities were so incompatible with those of the parent that inclusion would fail to meet the requirement to give a true and fair view of the undertaking included therein taken as a whole. This provision is in fact in conflict with IAS 27 which does not permit any exclusion on the grounds of incompatible activity. In other words, the previous directive allowed non-consolidation where the activity in one of the subsidiaries was so different to the activities of the rest of the group that to include the activities of that subsidiary in the consolidated accounts of the group would have distorted the fair picture presented of the group as a

whole. International Accounting Standards actually do not permit that and therefore this measure eliminates the prospect of that exclusion. In addition, this clause amends section 9 to bring the Ordinance into line with the seventh directive by permitting a subsidiary undertaking to be excluded from the consolidation where the parent's interest in it is held exclusively with a view to subsequent resale, irrespective of whether or not it has previously been included in consolidated accounts. Clauses 6, 7, 11, 14, 15, 16, 17, 18 and 19 make minor consequential amendments. For example, to terminology necessitated by implementation of the Modernisation Directive and Member State options in the International Accounting Standards Regulation. I commend the Bill to the House.

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

HON F R PICARDO:

The Bill is not controversial for the reasons that the Chief Minister has outlined. I just note that certainly in my short time in the House it is the first time that we are amending a Long Title. I assume there is power to do that the Long Title is really only to be used to interpret what it is that the Bill is for and perhaps the Chief Minister can tell us a little bit more about why a decision has been made to amend the Long Title. I note that the old Long Title simply listed the directives that were being transposed by the original Consolidated Accounts Ordinance. It may be that these directives continue to come out and that the shorthand that is being adopted, in other words to provide for the requirements of EU law, is one which is more convenient and perhaps one which we should consider adopting across the board because some of the other pieces of national legislation that we are amending will have Long Titles referring to directives that will perhaps no longer be relevant, like for example the insurance one, where there is a consolidation exercise being done throughout the rest of the Insurance Companies Ordinance

but not in relation to the Long Title, and this may be a good way in future of providing for Long Titles which do not become obsolete. I would also state that we have noticed that by way of regulation a number of other pieces of secondary legislation have been amended to take into account the same changes.

HON CHIEF MINISTER:

Just to clarify the point that the hon Member has made and if I have correctly understood his point the answer is this. The EU law requires transposing national legislation to acknowledge and recite the EU directive or regulation that is being transposed or given effect to in the case of Regulations. It has to be more than identifiable there has to be on the face of the national transposing legislation a direct reference to the EU measure being dealt with. If one wants to be generous for the reason for that rule one would say it is so that citizens can follow the Bill back to a source. If one wanted to be ungenerous one would think that the reason for that rule is that the community wants to ensure that everybody clearly understands the extent to which the community is now permeating national legislative processes and this really puts the EU stamp on every piece of national legislation throughout the community, and that sort of serves an invasive perceptive purpose. I accept what the hon Member says that we should avoid, the only way to achieve the objective that underscores the hon Member's point would be to do all these things not by consolidation, or rather not by amended legislation, but by consolidated legislation so that for example, instead of bringing an amending Bill we have brought a new consolidated Bill including the amendments, then of course there would not be any amended Bills left with the wrong Title, but I think that would not improve the quality of debate. Imagine if the hon Members always had the consolidated Bill not marked up, they would never see the amendments and it would make the legislative process much more complicated.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

**THE COMPANIES (ACCOUNTS) (AMENDMENT)
ORDINANCE 2005**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Companies (Accounts) Ordinance, 1999 in order to ensure the effective application of, and implement Member State options in, EC Regulation No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards; and to implement into the law of Gibraltar Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and 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, this Bill does not have to be read with the

previous one but hon Members will recognise that it is the equivalent Bill in relation to company accounts as opposed to company consolidated accounts. The provisions of the Bill are that clause 1 provides for citation and commencement and applies to companies' financial years which begin on or after 1st January, and as in the previous Bill, but which have not ended before the date of publication. Clause 2 amends the Companies (Accounts) Ordinance 1999 and clause 3 again amends the Long Title. Clause 4 amends section 1(2) of the Bill so that it states on its face, again the commencement provisions which are also covered in clause 1. Clause 5 inserts certain new definitions which flow from the IAS Regulation and the Modernisation Directive. Clauses 6 and 7 replace sections 3 and 4 respectively. This clause gives effect to the policy permitting choice in use of IAS. The new sections reflect the fact that some companies will continue to prepare their own accounts in accordance with the Ordinance, and others will use IAS as adopted by the EU Commission. In the interests of consistency and compatibility new sections 3(2) and 3(3) provides that companies choosing to prepare their accounts under IAS must continue to do so in subsequent years, and again that is subject to the exception that that will not apply when the company is taken over or becomes a subsidiary of an EEA undertaking which prepares accounts on a non-IAS basis. Clause 8 makes consequential amendments necessitated by the Modernisation Directive and implements article 1.2 of the Modernisation Directive. Member States may permit or require the presentation of amounts within items in the Profit or Loss Account and Balance Sheet to have regard to the substance of the reported transaction. This will permit compliance with IAS 32. This is being implemented as a requirement and will require accounts to reflect the substance of the transaction. Clause 11 inserts new sections 7A and 7B. New section 7A re-enacts in a slightly more detailed way the existing disclosure requirements regarding the particulars of staff in Schedule 7, paragraph 1(j) which is omitted by clause 24(1).

These provisions have been removed from Schedule 7 because these disclosures will have to be given by a company preparing

accounts in accordance with adopted IAS. Again, to aid anyone using these accounts, there is a requirement in new section 7B that companies preparing accounts under IAS must disclose that fact in the notes to the accounts. Clause 12 inserts new sections 8, 8ZZA and 8ZZB in order to provide for further disclosures in the director's report in implementation of articles 1.14, 1.17 in part, and 2.10 of the Modernisation Directive. Clauses 14 and 18 amend sections 10 and 16 respectively in relation to the content of the Auditor's report. These clauses implement articles 1.15, 1.16 and 1.18 of the Modernisation Directive concerning the audit report of individual companies, and article 2.11 concerning the audit report of groups. By specifying matters to be covered in the auditors report, articles 1.15 and 1.18 of the Modernisation Directive seek to achieve greater harmonisation and reflect best practice concerning the format and content of audit reports which currently differ across Member States. The amendments require disclosure whenever non-statutory accounts are published of whether the auditors have drawn attention in their report to any matter by way of emphasis without qualifying the audit report, as well as of whether the audit report was qualified or unqualified. Clause 19 amends Schedule 1 regarding the qualification of a company or a group as small or medium sized. It provides that where a company or a group prepares accounts under IAS it can qualify as a small or medium sized company if it meets the threshold requirements on the basis of amounts extracted from accounts prepared in accordance with adopted IAS. Clauses 23 and 24 give companies the options to extend the use of fair value accounting to other asset categories. The IAS on investment properties, which is IAS 40, and living animals and plants which is IAS 14 on agriculture, have been adopted pursuant to these IAS Regulations. Therefore, it is now permitted that these categories of assets require to be valued on a fair basis in both the individual and consolidated accounts. This will facilitate convergence with IAS and the optional approach is in line with the proposed policy on fair value accounting for financial instruments. Again, as with the previous Bill, clauses 9, 10, 13, 15, 16, 17, 20, 21 and 22 make minor consequential amendments, mainly as to terminology necessitated by the

implementation of these directives and also the exercise of Member State options in the IAS Regulations. 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 later today.

Question put. Agreed to.

THE CREDIT INSTITUTIONS (REORGANISATION AND WINDING UP) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to implement into the law of Gibraltar Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions, 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, hon Members will be familiar with the terms of the Bill. The directive which it seeks to transpose applies to reorganisation measures and winding up proceedings affecting credit institutions and their branches set up in a Member State, other than those in which they have their head offices. In other words, it creates a regime which chooses a jurisdiction in which winding up proceedings of an organisation with activities in various Member States, which jurisdiction has the jurisdiction to organise its winding up, the winding up of that institution. That is the regime created by this Bill. For the purposes of this Bill a credit institution is an undertaking whose business it is to receive deposits or other repayable funds from the public and to grant credit for its own account. This means that the directive applies to any bank or building society or other person authorised to carry on the regulated activities of accepting deposits or issuing electronic money.

The purpose of the directive is to establish for the proper functioning of the internal market and the protection of creditors, coordination rules to ensure that the reorganisation measures adopted by the competent authority of the home Member State in order to preserve or restore the financial soundness of a credit institution, as well as the measures adopted by persons or bodies appointed by those authorities to administer the reorganisation measures, are recognised and implemented throughout the community, and also to establish coordination rules for winding up proceedings in order to ensure that any such proceedings commenced in the home Member State are recognised and have full effect throughout the community, in accordance with the principles of unity and universality. In other words, that credit institutions will be wound up in their home Member State and then that all host Member States will recognise those winding up proceedings and reorganisation. In a nutshell that is the regime created by this directive and by the legislation before the House to transpose it.

The main purpose of the directive therefore is to ensure that reorganisation measures or winding up proceedings affecting credit institutions are recognised in all Member States without further formality. Only the administrative or judicial authorities of the Member State in which the credit institution is authorised, and that is the definition of credit institutions home Member State, in other words, where one is authorised for a licence can authorise the implementation of reorganisation measures or the opening of winding up proceedings in respect of that credit institution, including branches of that institution in other Member States. It is not the purpose of this directive to harmonise reorganisation and winding up arrangements across Member States. In other words, Member States can still have different procedures and different substantive laws but if an institution falls to be dealt with under the laws of one Member State, all other Member States have got to recognise those proceedings and those processes. So this is not a harmonisation measure as much as a recognition of other countries' processes measures. Accordingly, the approach in implementing the directive has been to maintain existing insolvency law as far as our national law is concerned, making only the minimum changes necessary to comply with the requirements of the directive. The Bill does not define reorganisation measures and winding up proceedings, this is because there is a significant blurring between the two categories. However, the measures which certainly fall into one category or the other are winding up by the court, a creditor's voluntary winding up which has been confirmed by order of the court, and the appointment of a provisional liquidator. Measures which may fall within one or both of these categories are compositions or arrangements under section 205 of the Companies Ordinance, where the purpose of such an arrangement brings it within the scope of a reorganisation measure or winding up as those terms are defined in the directive.

Clause 3 prohibits the reorganisation or winding up of an EEA credit institution under the law of Gibraltar. In other words, our law now recognises where there is a branch in Gibraltar of an EEA institution which we are only the host Member State,

because it is authorised elsewhere and has passported into Gibraltar so that the home Member State is another Member State, in other words the one that has licensed or authorised it, such institutions cannot now be reorganised under our laws. That is the effect of clause 3.

Clause 4 provides that the Gibraltar courts may impose section 205 schemes on EEA credit institutions or a branch of an EEA credit institution in certain circumstances. Where the credit institution or branch is subject to a reorganisation measure or winding up proceedings in its home Member State, the scheme cannot be confirmed by the court without the consent of the liquidator and the relevant administrative or judicial authority and the judicial authority in the home Member State.

Clause 5 provides for the recognition in Gibraltar of reorganisation measures or winding up proceedings which have effect under the law of another Member State in relation to a credit institution which is authorised in that Member State. It also implements the requirements of the directive with regard to the rights and duties within Gibraltar of competent officers appointed by judicial or administrative authorities in other Member States. That is important because part of the recognition of processes and arrangements in other Member States are for example, if the judicial authorities in that other Member State appoints a liquidator, an administrator or authorises an officer to do this or that or the other, then that person has authority to do those things throughout the whole EEC wherever there may be a branch of that authorised institution.

Part 3 of the Bill modifies general insolvency law as it has effect in relation to Gibraltar credit institutions but only in order to implement the provisions of the directive relating to notification to regulators and creditors. There is one area where we will have to change our substantive law a bit to make it compatible with the directive relating to notification to regulators and creditors. Clause 7 provides that general insolvency law applies, except to the extent necessary, to comply with the

specific requirements of the directive. Clause 8, for example, requires the authority to be notified of any intention to serve a notice of a meeting at which a resolution to wind up a credit institution voluntarily is proposed. Clause 9 sets out the circumstances in which the authority must be informed that a reorganisation measure or winding up proceedings have been commenced. This clause imposes its duty on the courts. The last sentence of that point is that the clause imposes its duty on the court. In other words, clause 9 sets out the circumstances in which the authority must be informed that reorganisation measures or winding up proceedings have been commenced. This clause imposes its duty on the courts. So for example, under the directive the authority, because the authority then has a responsibility to inform creditors, has got to be told about the commencement of proceedings. In Gibraltar proceedings are commenced by order of the court, so the Court Registrar has to inform the authority of the orders made up by the court on winding up proceedings. Then clause 10 imposes a requirement on the authority in turn to inform the home Member State competent authority, hence the chain. Under the directive the authority, which is the competent authority, has the obligation to spread this information around the EU, creditors and home but there has to be a mechanism by which it in turn is informed and that is the effect of those clauses.

Clauses 11, 12, 13 and 14 sets out the regime for the communication by the authority to the Gibraltar competent authority to creditors and to home Member State authority of any winding up or reorganisation proceedings commenced in Gibraltar. Clause 15 provides that an EEA creditor may submit claims in his domestic language, provided that the document contains a heading in English. Clause 16 provides that liquidators shall keep creditors regularly informed of the process of winding up proceedings. Clause 17 provides for how things may or should be sent in accordance with various requirements of the Bill. In other words, the mechanics of notification where there is a notification obligation. Clause 18 requires all persons required to receive or divulge information given to or by the regulatory authorities to be bound by professional secrecy as

required by existing directives. Clause 19 makes it clear that the provision of Part 4 of the Bill apply to both winding up proceedings and reorganisation measures within the meaning of the directive. Clause 22 details the matters that are determined in accordance with the general law of insolvency in Gibraltar. Clauses 23 to 25 implement article 20 of the Directive. That article provides derogations from articles 3 and 9, which require winding up proceedings and reorganisation measures to be carried out under law of the home Member States, for certain contracts and rights by requiring that these be determined in accordance with the law of the Member State which governs the contract or where the interest is registered. So that is a derogation from the general rule that reorganisations and winding up are done in accordance with the law of the home Member State.

Clause 23 concerns contracts of employment that are governed by the law of another Member State. Clause 24 concerns contracts in connection with removal of property situated in another Member State. Clause 25 concerns assets that are subject to registration in a public register in another Member State. So those are the categories of circumstances in which there is this derogation from the general rule that the applicable law is the law of the home Member State. Clause 26 provides that the opening of reorganisation measures or winding up proceedings will not affect the rights of third parties, who have proprietary rights in relation to property or other assets which are situated in the territory of another Member State. The rights in question include but are not restricted to the rights of secured creditors. Clause 27 provides that reorganisation measures or winding up proceedings must not interfere with the sellers exercise of those rights, in any case where the goods are situated in a Member State other than the home Member State of the credit institution. Clause 28 requires the commencement of reorganisation measures or winding up proceedings shall not affect the rights of creditors to demand the set off of their claims against the claims of the credit institution where this is permitted. Clause 29 is intended to ensure that transactions on a regulated market to which a credit institution undergoing reorganisation or

winding up proceedings is a party, will be dealt with in accordance with the rules of that market. This ensures that the market will not be disrupted by the commencement of reorganisation measures or winding up proceedings against the credit institution. Clause 30 introduces a derogation from the normal principle that a reorganisation measure or winding up of a credit institution may only be carried out under the law of the home Member State of that credit institution. That derogation is provided where a person who has benefited from a legal act detrimental to all the creditors, can provide proof that the act was carried out in accordance with the law of another Member State, and that the law of that Member State does not allow the act to be challenged.

Clause 31 introduces a derogation from that normal principle by requiring that the validity of the sale of certain classes of assets will be determined in accordance with the laws of the Member State in which the assets are situated. Clause 32 introduces a further derogation from that general principle, in other words, the principle of the applicability of the home Member State laws where a law suit is pending in a Member State other than the credit institution's home State, when the reorganisation or winding up procedures in relation to that credit institution are opened in the home Member State. The effect of opening home State insolvency measures or proceedings on the law suit will be governed by the law of the Member State in which the suit is pending. Clause 33 deals with rights in instruments, that is, securities which can be traded on financial markets. This clause provides that the enforcement of proprietary rights in these securities, or other rights the existence of transfer or which presupposes their recording in a register, account or centralised deposit system is governed by the law of the Member State where the register, account or centralised deposit system is held. Clauses 34 and 35 provide that the effects of a reorganisation or winding up on a netting agreement, or a repurchase agreement respectively, shall be determined in accordance with the law applicable to that agreement. Clauses 36 to 38 apply to branches within a Member State of credit institutions whose head offices are situated outside the

community. A branch of a third country credit institution situated in Gibraltar should be treated as if it were a Gibraltar credit institution. In other words, everything that we have just said relates to when the Gibraltar branch is a branch of an EEA credit institution but when the branch is a branch of a non-EEA, in other words established and licensed in a country that is not part of the EEA, then it is treated as if it were a Gibraltar credit institution. The other provisions of the Bill will then apply as if the branch were a Gibraltar credit institution. I commend the Bill to the House.

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

HON F R PICARDO:

I think I have indicated already to the Chief Minister that this is not a controversial Bill, it is a complex piece of legislation because of the need to cross-reference to the general insolvency law, and I think the first point to make is that we have been given an indication by himself that there is likely to be a new piece of legislation dealing with insolvency updating Gibraltar insolvency provisions, and I wonder whether he can tell us whether this piece of legislation will also be incorporated in that new insolvency statute when it comes, or whether it will continue to be a free standing piece of legislation. The reason for that is of course that a lot of the insolvency provisions are presently in the Companies Ordinance, if they are going to go elsewhere then there is going to be a need for major revision of this piece of legislation which is referring to the present sections of the updated and renumbered Companies Ordinance.

The second point is simply to refer to those parts of the Banking Ordinance which deal with reconstruction and similar arrangements in respect of licensees established in Gibraltar, which are not cross-referred to here although there is a cross-reference to sections 86 and 86A of the Banking Ordinance which deal with confidentiality issues. Sections 51 and 52 of the

Banking Ordinance deal with issues of reconstruction in relation to a licensee that is established under the law of Gibraltar. Principally this Ordinance deals with licensees established except that the wording has now changed, perhaps as directors have been superseding themselves to authorise a licence in other EEA States and with branches in Gibraltar, and sets out a regime for that purpose. The present language of the sections of the Banking Ordinance that deal with reconstruction refer to undertakings or licensees established under the law of Gibraltar. Now, I think that the intention is that these should run in parallel and that those parts of the Banking Ordinance that I have referred to continue to apply to institutions which are authorised or licensed in Gibraltar but I think it might be useful to show that they are intended to run in tandem and that there is no derogation of the power of the Commissioner in those parts of the Banking Ordinance to be the authority that must approve those arrangements for reconstruction. Finally, referring to the section that I asked the Chief Minister to simply read again, which is section 9 where he rightly points out that the court itself takes on an obligation, probably to be discharged through its Registrar, to notify the authority of any orders it makes under the provisions of that Ordinance, I also note that in sub-section (4) there is an obligation on a liquidator who has been appointed under sub-section (2) also to notify the authority of his appointment and it is an obligation that is sanctioned with criminality if it is not complied with, which is a very onerous provision. My concern would simply be this, a liquidator who today looks at his obligations under the Companies Ordinance would not see that obligation and might miss it, and it might be that it may be useful to somehow in the Companies Ordinance also reflect that there is a provision elsewhere that a liquidator must comply with when he is dealing with a particular type of company, namely a company that is a credit institution. It may be that all those issues will be dealt with if the Insolvency Ordinance does in fact, when it comes, also include the provisions contained herein at the moment simply in relation to credit institutions.

HON CHIEF MINISTER:

If I could briefly deal with the three points that the hon Member has touched on, I cannot tell the hon Member when the new Insolvency legislation will emerge in Gibraltar, it is something that (a) I am not sure is ready for consultation, and even if it were it would then be substantial consultation, but whether when that date arrives this will be consolidated into that or not is for decision and is moot. There is an argument for not consolidating it in the sense that this is a very particular regime for only credit institutions, whereas the rest would be a general body of law but the matter I am sure will be given due consideration and if there are advantages of the sort that the hon Member describes in consolidating this Bill, perhaps it could be a chapter, I am sure that will be given due regard by the draftsman. Nothing in this Bill, except in a very small way as I indicated, basically on notification and information requirements, alters any of Gibraltar's substantial law on winding up generally or of licensed financial services institutions. So all the powers of the authority of the Financial Services which is called the authority in the Financial Services Commission Ordinance, remain in tact as he has expressed. I think implicit in his remark was that he believed that that should indeed be the case and indeed, it is the intention of the Government that the authority under this Bill to be designated will be the same authority. So the Financial Services Commissioner, the authority for financial services will be the authority under this Bill as well. As to the possibility of conflict I do not have the Banking and other financial services legislation here so I do not know to what extent there may or may not be tension between the language established in one Bill and authorised on the other. Speaking only from recollection, which could therefore be wrong, I have got a feeling that the definition of 'established' in all those other legislations is by reference to authorised. It may be a different defined term but the definition imports the concept of authorisation, but I may not be right in saying that. Obviously somebody will have to see, I am sure the Financial Services Commission, the competent authority would bring to our attention if they form the view that the tension that the hon

Member suggested might exist, if it does indeed exist I am sure it will be brought to our attention by the competent authority and we would then bring clarifying legislation as necessary.

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 House recessed at 11.30 am.

The House resumed at 11.40 am.

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 Stamp Duties (Amendment) Bill 2005;
2. The Public Health (Amendment) Bill 2005;
3. The Insurance Companies (Amendment) (No. 2) Bill 2005;
4. The Companies (Consolidated Accounts) (Amendment) Bill 2005;
5. The Companies (Accounts) (Amendment) Bill 2005;

6. The Credit Institutions (Reorganisation and Winding Up) Bill 2005.

THE STAMP DUTIES (AMENDMENT) BILL 2005

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

Clause 2

HON CHIEF MINISTER:

Here it has been suggested to me now and it may be worth doing, an amendment has been proposed to me which I think has no legal effect or need for but may make the Ordinance more user friendly for people. Hon Members, at least some of them, will be aware that there is the Schedule at the back of the Stamp Duties Ordinance which is what most practitioners refer to. The amendment at the moment that is proposed is for the total deletion of the bits under the heading “Capital Duty” in the Schedule. The proposal is that so that the £10 flat will continue to appear in the list rather than be removed from the Schedule, is to leave the paragraph up to the words “Companies Ordinance”, put in the margin the words “£10” instead of “50p” and then delete the sentence “for every £100 and for every fractional part thereof”. So we leave the item but make it non ad valorem by simply having a fixed £10. That means that when practitioners are scanning the list, this will continue to feature on it, the list is not all only ad valorem items. For example, the hon Member will see there that there are many items in the Schedule which are not ad valorem, for example, Marriage Licence 50p, so it is not just the list and whilst it would be perfectly effective to proceed with the Bill as it stands before the House, it will result in this item disappearing from the Schedule so that lawyers would only see it if they examine the principal parts of the Ordinance, sections 92 and 91. Whereas the amendment is really just presentational, a change of amendment to the Schedule so that instead of disappearing from the Schedule it stays but in non ad valorem form. So I would therefore propose

that the Bill be amended by not deleting the paragraph beginning “on the nominal share capital” up to “Companies Ordinance”, in other words not deleting that, continuing with the deletions of the words “for every £100 and also for any fractional part of £100 of such nominal share capital”, that is deleted and then instead of deleting the reference to “50p” that that should be substituted by reference to “£10”. Is the proposal sufficiently clear to the hon Members?

HON F R PICARDO:

Yes clear, and I think it certainly will serve to make the Ordinance more readable. In that proposal I think we leave in the reference to sections 91 and 92 anyway so that people can go back to the original section.....

HON CHIEF MINISTER:

The amendments proposed to sections 91 and 92 are not affected.

HON F R PICARDO:

No of course, but we leave in the reference which would have been taken out under the original and also I think otherwise if we had done what was being proposed, it is good that we have looked at the Schedule, we would have ended up with the words “on loan capital” floating without a heading ‘Capital Duty’. So I think it is very useful actually to do it as is now proposed.

HON CHIEF MINISTER:

Well, it would not quite have been the effect because the Bill as it stands does not propose the deletion of the words ‘Capital Duty’. Delete the following words appearing under the heading

‘Capital Duty’, but still it would have been Capital Duty with just these two floating on loan capital. I think it is presentationally more attractive all round.

MR CHAIRMAN:

As a matter of drafting might I venture to suggest, is there not a call for a sub-paragraph (d) which will bring in the £10 in the margin in the area not deleted now after the Chief Minister’s proposed amendment. Where does the £10 come in?

HON F R PICARDO:

I think if it is amended to say ‘delete the following words’ and just delete ‘for every £100’ instead of what is presently there and insert

MR CHAIRMAN:

That takes care of that 50p ad valorem but what about the £10 where does that come in?

HON CHIEF MINISTER:

Yes, I have articulated the amendment by reference to the effect not by the mechanics of how one gets there. So (c) of clause 2 of the Bill would read: ‘in Schedule 1 under the heading ‘Capital Duty’ delete the words ‘for every £100 and also for any fractional part of £100 or such nominal share capital. 0.50’ delete the words altogether, then delete also the figure ‘50p’ and replace that with ‘£10’ and insert in its place £10. If this was given in writing that is how the letter would read.

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

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

THE PUBLIC HEALTH (AMENDMENT) BILL 2005

Clause 1

HON CHIEF MINISTER:

I have given notice of the amendments and perhaps we could just take that as read rather than recite it. I think the amendments in the letter are as I explained them in the Second Reading.

1. The reference “(1)” is inserted immediately before the words “This Ordinance may be cited as”;
2. All words appearing after “2005” are omitted;
3. The following sub-clauses are inserted after sub-clause (1) -

 “(2) Section 2(a) shall be deemed to have come into force on 1 July 2005.

 (3) Section 2(b) shall be deemed to have come into force on 1 October 2005.”

Clause 1 - as amended, stood part of the Bill.

Clause 2

The Hon the Chief Minister moved the following amendment:

In clause 2(a), for the new paragraph (k) there is inserted the following –

“(k) such premises occupied by such club, association or society not established or conducted for profit as may be approved by the Chief Secretary in accordance with the criteria laid down for that purpose from time to time by the Government of Gibraltar.”

Clause 2 - as amended, stood part of the Bill.

The Long Title – stood part of the Bill.

THE INSURANCE COMPANIES (AMENDMENT) (NO. 2) BILL 2005

Clauses 1 to 17 and the Long Title – were agreed to and stood part of the Bill.

THE COMPANIES (CONSOLIDATED ACCOUNTS) (AMENDMENT) BILL 2005

Clauses 1 to 20 and the Long Title – were agreed to and stood part of the Bill.

THE COMPANIES (ACCOUNTS) (AMENDMENT) BILL 2005

Clauses 1 to 24 and the Long Title – were agreed to and stood part of the Bill.

THE CREDIT INSTITUTIONS (REORGANISATION AND WINDING UP) BILL 2005

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

Clause 2

HON F R PICARDO:

In relation to the definitions which are included here in clause 2, there are a number of points which I just draw to the attention of the Chamber. Firstly in the definition of “creditors’ voluntary winding up” I think there is a superfluous reference to the section. I think has the meaning given by section so delete the word “the” appearing before the word “section”. In the definition of “Directive winding up proceedings” a more substantive point, which is meaning winding up proceedings as defined in article 2 of the Reorganisation and Winding Up Directive, which were opened on or after the date. I think in our law it is which were commenced on, I think winding up proceedings are commenced not opened. The references in the Companies Ordinance are to winding up proceedings being commenced from a particular date not opened.

HON CHIEF MINISTER:

I do not think the hon Member is right in this point because I think the ‘were’ refers to proceedings and not to directive. Which proceedings were opened.....

HON F R PICARDO:

Yes, that is exactly what I mean. I think that winding up proceedings under our law are not opened, they are commenced. The Companies Ordinance says that a winding up proceeding is commenced on the date that a winding up petition is presented. It does not say opened so I think just the words ‘were opened’ should be replaced by the word ‘commenced’. Finally, the definition of “liquidator”, I think at the moment needs some work. Liquidator is defined as ‘except for the purposes of section 4, including any person or body appointed by the administrative or judicial authorities whose task it is to administer winding up proceedings in respect of a Gibraltar credit institution which is not a body corporate’. I am having

some difficulty with that, I think that the words ‘which is not a body corporate’ go after the word ‘body’ in the second line not ‘Gibraltar credit institution’. That suggests a Gibraltar credit institution which is itself as a credit institution not a body corporate, so I would simply propose that we move the words ‘which is not a body corporate’ to after the word ‘body’ where it appears in the second line.

HON CHIEF MINISTER:

Well, the hon Member would be right only if the ‘which is not a body corporate’ is intended to refer to the liquidator and not to the credit institution. Well if he is right I think the change that he proposes is correct. If he is not right, I would need notice of the observation to see whether he was right or not. Let me just read it again. No I think it must refer to the liquidator.

HON F R PICARDO:

The credit institution must be corporate that is why we are talking about winding them up.

HON CHIEF MINISTER:

Yes, I think it is a grammatical point anyway, there is too much distance between the word ‘body’ and ‘which is not a body corporate’. So the words ‘which is not a body corporate’ can certainly be brought up to after the word ‘body’ in line 2 of the definition of “liquidator”. I do not support the hon Member’s second proposal in relation to the word ‘opened’ because the definition of “directive winding up proceedings” means winding up proceedings as defined in article 2 of the Directive. If the directive uses the word ‘opened’ I think we should leave the word ‘opened’ to be consistent with the language of the directive which it incorporates by reference. If this was a definition that referred to our own law which used the word ‘commenced’ then I

think the hon Member's point would have more merit, but because it is a definition by reference to the language in the article of the directive, if that is the word that the directive uses I think it is safer to leave it. The definition in article 2 of the directive of 'winding up proceedings' shall mean collective proceedings opened.....

HON F R PICARDO:

I accept the Chief Minister's point, I think it is one of the problems with European Union pieces of legislation that they are often incompatible with all of the laws of all the Member States but probably designed to be more compatible with the civil law states than with ours.

HON CHIEF MINISTER:

I do not think this point would cause any trouble to any court, 'opened' 'commenced' they both have the same meaning. I do not think it alters the legal effect.

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

Clauses 3 to 11 – were agreed to and stood part of the Bill.

Clause 12

HON F R PICARDO:

In sub-section (2) the definition of a 'qualifying order' includes a qualifying appointment in sub-paragraph (b) which means the appointment of a liquidator and the Bill presently says 'as mentioned in section 275 of the Companies Ordinance'. I think that that should be as provided for in section 275 of the Companies Ordinance. Section 275 of the Companies

Ordinance is a section which gives power to the court to appoint and fix remuneration of liquidators and it is not an issue which is mentioned in that section, it is a provision that is provided for in that section.

Clause 12 - as amended, was agreed to and stood part of the Bill.

Clauses 13 to 38 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 Stamp Duties (Amendment) Bill 2005, with amendments; the Public Health (Amendment) Bill 2005, with amendments; the Insurance Companies (Amendment) (No. 2) Bill 2005; the Companies (Consolidated Accounts) (Amendment) Bill 2005; the Companies (Accounts) (Amendment) Bill 2005; and the Credit Institutions (Reorganisation and Winding Up) Bill 2005, with amendments, have been considered in Committee and I now move that they be read a third time and passed.

Question put.

The Stamp Duties (Amendment) Bill 2005;
The Insurance Companies (Amendment) (No. 2) Bill 2005;
The Companies (Consolidated Accounts) (Amendment) Bill 2005;
The Companies (Accounts) (Amendment) Bill 2005; and
The Credit Institutions (Reorganisation and Winding Up) Bill 2005, were agreed to and read a third time and passed.

The Public Health (Amendment) Bill 2005 –

The House voted.

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

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 A Bruzon
 The Hon Dr J J Garcia
 The Hon S E Linares
 The Hon F R Picardo
 The Hon L A Randall

The Bill was read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 28th November 2005, at 10.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 12.05 pm on Wednesday 9th November 2005.

The House resumed at 10.30 am.

PRESENT:

Mr Speaker.....(In the Chair)
 (The Hon Haresh K Budhrani QC)

GOVERNMENT:

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

ABSENT

The Hon Miss M I Montegriffo

IN ATTENDANCE:

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

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table the Income Tax (Allowances, Deductions and Exemptions) (Amendment No. 2) Rules 2005.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

THE RE-USE OF PUBLIC SECTOR INFORMATION ORDINANCE 2005.

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to transpose into the Law of Gibraltar Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill has been published with quite an extensive Explanatory Memorandum which sets up, just for the purposes of Hansard if the House will allow I will go through quickly what some of the clauses say. I think the important thing for the House to bear in mind is that this is not a freedom of information act. In other words, it does not oblige a public sector body to make information available. It rather regulates the mechanics and the terms upon which information which a public sector body decides should be free for use by other people, the terms and the manner in which it is made available but it does not oblige the information to be made available in the first place. So not to be confused with a freedom of information legislation which it is not, it is rather saying if a public sector body decides that information that was produced internally by the Government for one purpose, for its purpose, should nevertheless be available for use by others for a completely different purpose, there are mechanics and the legislation sets out how that permission should be sought, in what circumstances it can be granted or not granted and the conditions that it is legitimate to attach to it or not.

Re-use of public sector document is the use of a document held by a public sector body which is quite widely defined in the legislation, a public sector body. For example, a Government department or a Government agency or a Minister, in fact I think we have added a catch-all at the end, any entity covered by the Public Services Ombudsman Ordinance for a purpose other than the original purpose within the public sector body's public tasks for which the document was produced. For example, where a document is initially produced for internal Government use, for example, a review, policy guidelines or an information document that is then made available outside Government. The Directive, as I have just explained, does not require public sector bodies to make internal documents public but puts in place

certain minimum standards of accessibility where a decision has been taken to allow re-use of a document. Hon Members will be aware that one of the provisions of the Bill requires every public sector body to publish a list of its internal documents that are available for public re-use so that people know what documents they can ask for permission to use under this legislation. Therefore, the Bill transposes the Directive as follows.

Clause 2 is the general interpretation section, as hon Members can see. Clause 3 defines “public sector body”, the definition includes not only Government departments but also corporations which are financed wholly or mainly by the public funds for the purpose of meeting public needs. So hon Members will see a pretty wide definition there, ‘public sector body’ for the purpose of this Ordinance includes a Minister of the Government, a Government department, the House of Assembly, the City Fire Brigade as constituted by the Fire Services Ordinance, the Royal Gibraltar Police as constituted by the Police Ordinance, a corporation established or a group of individuals appointed to act together for the specific purposes of meeting needs in the general interest not having an industrial or commercial character and financed wholly or mainly by another public body. Then it goes on in that vein and then there is this catch-all that I referred to earlier, without prejudice to the list, a public sector body includes any authority listed in Part 1 of the Schedule to the Public Service Ombudsman Ordinance, it is quite a wide definition. Clause 4 defines re-use of documents and specifically excludes from that definition the transferring of a document from one public sector body to another. Clause 5 sets out the exclusions. The exclusions include documents whose copyright is not held by the public sector body and documents which have not been identified by the public sector body as available for re-use. Public service broadcasters, schools and cultural establishments, such as libraries and museums, are also exempt from compliance with the Bill’s requirements. Clause 6 sets out how to make a request for re-use, and clause 7 provides that the public sector bodies may permit re-use. Clause 8 sets out time limits within which a public sector body must respond to a request for re-use. Clause 9

provides that where a public sector body refuses a request for re-use it must notify the applicant in writing of the reasons for and inform them of the complaints procedure. Indeed, one of the mandatory requirements on public sector bodies under this Bill is not only that they publish lists and terms and fees for the re-use of its information, but also that each public sector body must have a complaints procedure when requests are denied and ultimately the matter can be referred under the Bill to the Ombudsman if there is still a grievance. Clauses 10 and 11 deal with the processing of requests for re-use and the format of documents made available for re-use. Where possible, electronic means such as e-mail and the internet are to be used and the Bill specifically encourages and requires public sector bodies to facilitate the re-use of information through electronic means. Clauses 12 to 15 deal with conditions for re-use, the granting of licences and charges. Public sector bodies may impose conditions on re-use but such conditions shall not discriminate between persons who wish to use the document for comparable purposes and shall not unnecessarily restrict competition. Exclusive licences for the re-use of documents may not be granted save where this is in the public interest and where such exclusive licences are granted, they shall be reviewed at least every three years. Public sector bodies may charge for allowing the re-use subject to the criteria which are listed in clause 15 of the Bill. Clause 16 provides a public sector body shall make the following available to the public: ‘any conditions for re-use, any standard charges, a list of the main documents available for re-use and details of the means of redress in case of complaints relating to this legislation. Clause 17 requires public sector bodies to establish an internal complaints procedure relating to this legislation, and Clause 18 provides that where a person has exhausted the complaints procedure, they may refer the complaint to the Ombudsman. In transposing this directive the Bill continues the Government’s approach of encouraging public sector bodies to use information technology and the internet to provide information to the public where appropriate. I commend the Bill to the House.

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

HON F R PICARDO:

The Bill obviously reflects the transposition of the directive to which the Chief Minister has referred and it is done really in terms almost identical to the Statutory Instrument in the UK which is the Re-use of Public Sector Information Regulations 2005. I note that in that Regulation there is a reference to the exclusion of public service broadcasters and public service broadcaster is defined in section 5(4) as having a particular meaning. Now, in Gibraltar we have taken the route of also in section 5(3) excluding, as the directive more or less indicates we are able to do, the application of these rules to public service broadcasters but we have not provided the definition of public service broadcaster and I assume that that is because as we only have one public service broadcaster, it is not envisaged at least it has not been suggested that it is envisaged that there will be another one, there is no need for that but I see that the reference is in the plural and it may be that we want to tidy that up when we come to the Committee Stage.

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 IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE 2005.

HON CHIEF MINISTER:

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

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill responds to a representation made to the Government by the Magistrates' Association in which they have asked the Government to alter the provisions that we introduced into the Ordinance some years ago imposing mandatory sentence for the exportation of tobacco without a licence. Hon Members will recall that that was one of the measures that we took in order to ensure that there was a deterrence, particularly in relation to the 'matuteras' and that sort of activity. Some members of the Magistrates' Association it has to be said, not all of them, feel that this deprives them from taking the personal circumstances of the individuals into account, a concern which actually clashes with the policy objective of the Government, because of course people who engage in that activity are almost always from a lower socio-economic background and if one therefore takes that into account when deciding on sentence, one loses the whole purpose of the measure which is to act as a deterrent precisely to that sort of people. So there was this sort of Catch-22, however we think that the situation with that particular activity in Gibraltar is now sufficiently under control to enable the Government to give some quarter, hon Members may know and this is a debate that rages in the United Kingdom, judges never like to be told by legislators what sentence they must impose for

breaches of particular offences. It is quite controversial in the UK now where quite a lot of mandatory sentences are beginning to sneak in to UK legislation, such things as two strikes and one is out and all that sort of thing. So the Government are not willing to go back to a situation where the court can impose a sentence of whatever degree of leniency it pleases because we regard this as an important area of public policy in which there is a significant public interest of Gibraltar at stake which cannot be out of the Government's hands, but we are willing at this stage in the matter to give some quarter to the views of the Magistrates and that is done by this Bill, which rather than say that somebody who is fined and does not pay must be imprisoned for three months. The Ordinance says a fine of I think £1,000, I will take hon Members through the detail in just a moment, or in default three months imprisonment, but three months mandatory not up to three months. So what we are now doing is replacing the three months mandatory imprisonment in default of the fine for a range between one month and three months, so there is a minimum of a month but between a month and three months the Magistrate can take if he or she wants the personal circumstances of the person into account. So in other words, a mandatory three months is substituted for a mandatory one month allowing the range between one and three but not below one. Hon Members will see that section 91B of the Imports and Exports Ordinance, 1986 deals with exports by land and sub-section (1) says 'no person shall without the written approval of the Collector export or attempt to export tobacco or any other article or goods by land other than through the pedestrian or vehicular gate at the frontier when it is opened for authorised commercial traffic under the supervision and control of a customs officer.' This Bill simply amends the sentencing powers under section 91B(2) of the Ordinance. At the moment it says in sub-section (1), 'he shall be guilty of an offence and shall be sentenced on summary conviction to a fine at level 4 on the standard scale (which is £2,000) or in default three months imprisonment'. Sub-section (2) is amended by this Bill by deleting the fixed period of three months imprisonment for default of not paying the fine and inserting a period of

imprisonment of "not less than one month but not exceeding three months". 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 move that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

THE INCOME TAX (AMENDMENT) ORDINANCE 2005.

HON CHIEF MINISTER:

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

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, I shall be moving a very small amendment

and that is that the title of the Bill should read “(Amendment) (No. 2) Ordinance” so I will be moving an amendment that will make the title of the Bill ‘The Income Tax (Amendment) (No. 2) Ordinance 2005’. The Bill brings into effect the remainder of the Income Tax measures announced in the Budget this year, which have not been dealt with by amendment of the rules which have been laid in the House earlier today. Section 6(1)(g)(b) amends the existing Ordinance by taking out of tax further capital sums paid in commutation of small pensions by increasing the value of the capital sum excluded from taxation to an amount which would generate a pension of £2,000 a year rather than the existing £1,000. Hon Members will remember that mechanism and this in effect by doubling the amount of an income that it needs to generate before it is taxable, in effect doubles the amount of capital that can be taken in a tax efficient manner.

Section 6(2) is amended also by clause 2 of the Bill. This section previously imposed tax on the income of any individual or company ordinarily resident in Gibraltar whose activities included ownership, chartering or operation of any ship. The tax was imposed with no regard to where the ship was registered or where the activities of the individual or company took place. This approach actually was inconsistent with the remainder of the Income Tax Ordinance which imposed tax in section 6(1) by reference to income in respect of profit or gains accruing in the right form or received in Gibraltar. In other words, historically our income tax legislation has treated shipping companies differently and whereas other companies were taxed depending on whether their income was accruing, derived from or received in Gibraltar, which is the main charging section under section 6(1), section 6(2) created a separate and different regime for shipping companies which were in effect taxed in Gibraltar on their worldwide basis regardless of whether the income was received in, derived from or accrued in Gibraltar. We are abolishing that so that shipping companies will now be taxed in accordance with the same rules as affect all other companies engaged in commercial activities in Gibraltar and that is what clause 2(2) of the Bill does when it repeals section 6(2) of the Ordinance. Clause 2(3) of the Bill adds new sections 6(8) and

6(9) but the sub-sections of section 6 are not re-numbered despite the fact that section 6(2) is repealed. So even though we have repealed section 6(2) when we add a new sections 6(8) and 6(9) further down on the list, sections (3), (4), (5), (6), (7), (8) and (9) are not and that is typical of tax legislation where sections that are repealed are left blank because there are many cross references in legislation, and if one amends and changes one has got to change all the cross references as well, so the standard technique in taxation legislation is to leave numbers blank or unused if they are vacated through amendment. These two new sub-sections implement the budget undertaking to take out of taxation all dividends paid by a Gibraltar company to another company, all dividends payable by a Gibraltar company to those who are neither tax resident in Gibraltar nor permitted individuals, and also to take out of taxation the income from savings. The sub-section then goes on to define savings income as all dividends received from companies quoted on a recognised stock exchange, all interest payable by a licensed financial institution licensed under Gibraltar legislation or equivalent legislation elsewhere, all income from debentures, loan stock, bonds and other similar investments issued by a quoted company, Government local or public authority and the proportionate part of a dividend from a company whose income derives from exempt sources and which relates to exempt sources. Sub-section (9) allows the Commissioner of Income Tax to designate stock exchanges as recognised for the purposes of the section and in fact the Commissioner will be designated the same stock exchanges as are recognised for financial services legislation purposes in Gibraltar.

Clauses, 3, 5 and 6 repeal sections 39, 42 and 43. Section 39 is repealed to allow the payment of dividends without an obligation on the part of the payer to withhold tax on account of the liability of the recipient. In other words, we are abolishing the system of withholding as a mechanism for the taxation of dividends. The repeal of sections 42 and 43 are consequent on this repeal. A new section 39 and section 42 is however introduced by the Bill. These new sections are necessary to maintain the ability of the Commissioner of Income Tax to identify those who are liable to

tax on receipt of a dividend and to maintain the current liability position for a person who is charged with tax in Gibraltar on a dividend. In other words, it requires the company to submit a return of dividends to the Commissioner of Income Tax where a dividend is paid to somebody who may be liable to tax in Gibraltar and it continues to create a tax credit. Hon Members know that the position at the moment, and none of these things really change the taxation base, is that if a company pays a dividend to a shareholder because the dividend is paid out of taxed income the receiving shareholder gets a credit in his tax assessment at the rate that the company paid the tax, if then one is a higher rate tax payer one pays on the difference. This new section 42 simply continues that system of ensuring that there is a tax credit available to the shareholder at the rate at which the company has paid tax and also creates a regime whereby the company has to continue to pay the difference between tax paid and tax credits in circumstances where for example there has been double taxation relief because a company has paid tax abroad, gets relief in Gibraltar and therefore the tax credits given may actually exceed the amount of tax that the Government have actually received from that company because of the incidence of such things as double taxation relief and things of that sort.

The one amendment which I do not think was actually covered in the budget but the opportunity has been taken of this amendment to the Ordinance to bring it about, is something which has been giving the Commissioner of Income Tax some statutory grief for some time, in particular in pursuit of the Principal Auditor, and that is that the regime for the imposition of penalties, I am not quite certain what the regime is, I think section 84 imposes an additional penalty of 10 per cent of the tax due where the tax remained unpaid for five months and for every five months thereafter. That, which actually has never been implemented on an every case basis since it was introduced many years ago, is nevertheless drafted in mandatory terms. The Commissioner of Income Tax considers it difficult to operate and in fact has requested that it be made discretionary which is how it has operated since it was legislated

many years ago by a previous House in a previous time, and therefore all that this does is to make the power discretionary allowing the Commissioner of Income Tax, as he does at the moment and has always done I am assured, to decide which cases are so serious as to impose a penalty. 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 EMPLOYMENT (ARCHITECTS) (EEA QUALIFICATIONS) (AMENDMENT) ORDINANCE 2005.

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 1996 in order to partly transpose into the law of Gibraltar Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001 amending Council Directives 89/48/EEC and 92/51/EEC on the general system for the recognition of professional qualifications and Council Directives 77/452/EEC, 77/453/EEC, 78/686/EEC, 78/687/EEC, 78/1026/EEC, 78/1027/EEC, 80/154/EEC, 80/155/EEC, 85/384/EEC, 85/432/EEC, 85/433/EEC and 93/16/EEC concerning the

professions of nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, architect, pharmacist and doctor, 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 Bill before the House forms part of the trilogy of Bills featuring in today's agenda serving to complete the transposition of Directive 2001/19 which commenced in 2003 with the Recognition of Professional Qualifications Ordinance (Amendment) Ordinance 2003. This is an umbrella directive amending a significant number of other directives dealing with areas as diverse as veterinary, architectural and medical qualifications. The other Bills in today's agenda, the Bill to amend the Medical and Health Ordinance 1997 and the Bill to amend the Veterinary Surgeons (EEA Qualifications) Ordinance 1996. There is a new section 4 of the principal Ordinance introduced by this Bill which provides that an EEA national holding qualifications from a non-EEA State is able to practise provided he possesses written evidence of the qualification is recognised by a State anywhere within the EEA. The only other amendment carried forward is an offences creating section and an updating of the definition on 'architects directive'. 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 VETERINARY SURGEONS (EEA QUALIFICATIONS) (AMENDMENT) ORDINANCE 2005.

HON DR B A LINARES:

I have the honour to move that a Bill for an Ordinance to amend the Veterinary Surgeons (EEA Qualifications) Ordinance 1996 in order to partly transpose into the law of Gibraltar Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001 amending Council Directives 89/48/EEC and 92/51/EEC on the general system for the recognition of professional qualifications and Council Directives 77/452/EEC, 77/453/EEC, 78/686/EEC, 78/687/EEC, 78/1026/EEC, 78/1027/EEC, 80/154/EEC, 80/155/EEC, 85/384/EEC, 85/432/EEC, 85/433/EEC and 93/16/EEC concerning the professions of nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, architect, pharmacist and doctor, 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 Bill before the House forms part, as I said before, the trilogy of Bills in today's agenda serving to complete the transposition of Directive 2001/19 which commenced in

2003 with the Recognition of Professional Qualifications Ordinance (Amendment) Ordinance 2003. This is an umbrella directive, as I also explained before, amending a significant number of other directives dealing with areas as diverse as veterinary, architectural and medical qualifications. The new section 4 of the principal Ordinance introduced by the Bill provides that an EEA national holding qualifications from a non-EEA State is able to practise provided he possesses written evidence of the qualification which is recognised by a State anywhere within the EEA. The only other amendment carried forward is an offences creating section and an updating of the definition of 'Veterinary Surgeons Directive'. Provision is also made consequential to the insertion of the new section 4 into the principal Ordinance. To understand new section 4 it is important to note that at least in respect of the medical professions the directive operates by listing in an annex all qualifications to which the directive applies, broken down by the awarding State. This appears in the Bill as a new schedule to the principal Ordinance. New section 4 softens up the inevitable rigidity of this approach by providing that an EEA national with an unlisted qualification may practise in Gibraltar providing the awarding EEA State recognises in writing that the qualification is in full compliance with directive requirements. 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 MEDICAL AND HEALTH ORDINANCE (AMENDMENT) ORDINANCE 2005.

HON LT-COL E M BRITTO:

I have the honour to move that a Bill for an Ordinance to amend the Medical and Health Ordinance in order to transpose into the law of Gibraltar Council Directive 2001/19/EC which amends the Directives relating to nurses responsible for general care, midwives, dentists, pharmacists and doctors and to implement in part Annex II to the Act annexed to the Treaty relating to the conditions of accession of new Member States signed at Athens on 16th April 2003 insofar as it amends the Directives relating to those health care professionals, be read a first time.

Question put. Agreed to.

SECOND READING

HON LT-COL E M BRITTO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill before the House transposes Directive 2001/19. This directive is an umbrella directive amending a significant number of other directives dealing with areas as diverse as veterinary, architectural and medical qualifications. One element of this directive was transposed in 2003 through the Recognition of Professional Qualifications Ordinance (Amendment) Ordinance 2003. The manner in which this directive is structured, as with most others dealing with the mutual recognition of qualifications, is through an annex setting out in detail the diplomas subject to the mutual recognition regime. The difficulty we had with this of course is that the

annex failed to cite our own nursing qualifications awarded by the School of Health Studies. This was discriminatory on our nurses who had to obtain the equivalent UK qualification should they wish to practise elsewhere in the EEA. After some discussion with the UK I am pleased to announce to the House today that a commitment has been obtained from the UK Government that an amendment to the annex will be tabled by the UK citing the Gibraltar nursing qualification. The House will therefore be pleased to learn that the effect of this is that our nurses will be able to work anywhere in Europe on the strength of their Gibraltar awarded diploma.

The principal aim of the Bill is to transpose into Gibraltar law the technical adaptations, (1) which Council Directive 2001/19/EC as regards health care professionals only requires; and (2) the annex to the Act of Accession made to the EU secondary legislation consequential to enlargement. Insofar as the transposition of the annex is concerned the Bill provides for the listing of qualifications awarded by those States which are eligible for automatic recognition and the recognition of qualifications awarded for training began before accession and which does not comply with the minimum requirements on proof of a minimum period of professional experience. This provision is consistent with that made on previous EU accessions. The position is that the new States are obliged to ensure that the qualifications they award for training begun on or after accession comply with applicable training requirements. The European Commission's assessment is that training on the ground in all new States will meet this requirement, although in the case of the Czech Republic, Latvia and Poland, whose transposition of the relevant directive's international legislation was not completed on accession. The Commission is committed to continue to closely monitor the progress of the new States. In the event that safeguards were needed, it would be open to Her Majesty's Government under the terms of articles 37 and 38 of the Treaty of Accession, to make a reasoned request to the Commission to take appropriate measures, the obligation on existing Member States to comply with the Community law remains unaffected.

The effect of Part C of annex 2 to the Act of Accession insofar as it amends the directives relating to health care professionals is to extend rights already enjoyed by the nationals of the 15 existing Member States to the recognition of professional qualifications in the field of health and social care to the nationals of the 10 new Member States. EU Directives for the mutual recognition of professional qualifications also applied by virtue of separate agreements to the nationals of the non-EU European Economic Area States. These EEA States are Iceland, Liechtenstein, Norway and Switzerland. These agreements have been adjusted to take account of the Treaty of Accession. Article 20 of the Act of Accession annexed to the Treaty gives effect to certain permanent technical adaptations of EU secondary legislation, including directives on the mutual recognition of professional qualifications which are consequential to the enlargement. The Bill introduces the corresponding technical amendments to existing transposed legislation concerning the recognition of professional qualifications in the fields of health and social care. The current position is that doctors, dentists, general care nurses, midwives and pharmacists who are nationals of and who are qualified in the existing Member States are entitled to automatic recognition throughout the Community on the basis of compliance with coordinated minimum training requirements. For health and social care professionals these training requirements are not coordinated and the general system of recognition applies. This is based on comparative scrutiny of migrants' qualifications and experience against the national requirements of the host Member State. In the event of a substantial difference they may be required to prove additional experience or to pass an adaptation period or aptitude test as a condition of recognition. Migrants who cannot benefit from either of these arrangements are entitled by virtue of their fundamental rights under the EC Treaty to an individual assessment. The Medical and Health Ordinance 1997 is already designed to reflect some of these rights for measures specific to the professions concerned. 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 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 PRISON (AMENDMENT) ORDINANCE 2005.

HON MRS Y DEL AGUA:

I have the honour to move that a Bill for an Ordinance to amend the Prison Ordinance, 1986, be read a first time.

Question put. Agreed to.

SECOND READING

MINISTER FOR SOCIAL AFFAIRS:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the House will recall that in 2000 an Ordinance was passed repealing sections 57 to 65 of the Prison Ordinance dealing with the sentence of death. The short Bill before the House is the result of further housekeeping and deletes references to the sentence of death in section 2, the definition of prison, and section 17(2) and repeals Schedules 1 and 2 of the principal Ordinance. I give notice that I will be moving a small amendment at Committee Stage to renumber

section 3 to section 4, a small typographical error. 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 MRS Y DEL AGUA:

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

Question put. Agreed to.

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 Investor Compensation Scheme (Amendment) Bill 2005;
2. The Re-use of Public Sector Information Bill 2005;
3. The Imports and Exports (Amendment) Bill 2005;
4. The Income Tax (Amendment) Bill 2005;
5. The Employment (Architects) (EEA Qualifications) (Amendment) Bill 2005;
6. The Veterinary Surgeons (EEA Qualifications) (Amendment) Bill 2005;

7. The Medical and Health Ordinance (Amendment) Bill 2005;
8. The Prison (Amendment) Bill 2005.

THE INVESTOR COMPENSATION SCHEME (AMENDMENT) BILL 2005

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

THE RE-USE OF PUBLIC SECTOR INFORMATION BILL 2005

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

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

Clause 5

HON F R PICARDO:

Just here as I indicated in my intervention in the Second Reading, at section 5(3) there is a reference to 'public service broadcasters', in the English Statutory Instrument at sub-section (4) the definition of 'subsidiary' there is also a definition there of what public service broadcaster means. In the UK of course there is more than one public service broadcaster, in Gibraltar there is only one and my suggestion would be that we somehow show that by perhaps including a reference to the definition of public service broadcaster being as defined under the Gibraltar Broadcasting Corporation Ordinance, which would I think serve to properly limit the definition of those words which are defined words in the Instrument from which we have taken section 3(a).

HON CHIEF MINISTER:

I am grateful to the hon Member for his proposal but the Government do not intend to act on it at this stage. We will consider it and whether we deal with it at a different stage given the context that this is an exclusion from re-use of public documents that there is at the moment only one public service broadcaster, I would like to give further thought to whether the UK definition is actually directly borrowable or not because there is a difference between a public service broadcaster and a publicly funded broadcaster. The concept of public service broadcasting relates to the nature of the broadcaster and in Gibraltar our definition of public service broadcaster is actually different, the way we have always used it historically, in the UK the BBC is a public service broadcaster but ITV may not be. In Gibraltar public service broadcasting has always been thought of in terms of community broadcasting, the nature of the programme rather than the control of the entity that does it. I would like to give just a little bit more thought to whether we should just borrow the UK's, I do not think it dis-habilitates given what the purpose is, well I think it would certainly benefit *ex abundanti cautela* from some sort of definition in case somebody argues that the exemption should not apply to a particular broadcaster and that therefore they are entitled to the re-use of a document, but that is not going to arise at the moment because there is only one broadcaster which is clearly a public sector broadcaster and therefore I would like to take it in slower order and if necessary bring an amendment with appropriate wording if I am advised that the legislation would be better with the definition of public service broadcaster. So I suppose if I could just defer consideration for an amendment rather than for introduction into the Bill at this stage, that is the way that we would prefer to deal with it.

HON F R PICARDO:

I have no difficulty with that whatsoever. I just recall that in one of the debates we had since November 1993, we had some

discussion about the use of broadcasters in emergency situations where we, I think, also pursued this question of public service broadcasting from a different angle, I think there was an issue there with BFBS and whether BFBS Radio also became involved, so it may be necessary to look at that permutation also.

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

Clauses 6 to 18 and the Long Title – were agreed to and stood part of the Bill.

THE IMPORT AND EXPORTS (AMENDMENT) BILL 2005

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

THE INCOME TAX (AMENDMENT) BILL 2005

Clause 1

HON CHIEF MINISTER:

In clause 1 if we could just insert after the word “(Amendment)” the new brackets and “(No. 2)”, so it would read ‘this Ordinance may be cited as the Income Tax (Amendment) (No. 2) Ordinance’.

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

Clauses 2 to 8 and the Long Title – were agreed to and stood part of the Bill.

THE EMPLOYMENT (ARCHITECTS) (EEA QUALIFICATIONS) (AMENDMENT) BILL 2005.

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

THE VETERINARY SURGEONS (EEA QUALIFICATIONS) (AMENDMENT) BILL 2005.

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

THE MEDICAL AND HEALTH ORDINANCE (AMENDMENT) BILL 2005.

Clauses 1 to 13, Schedules 1 to 4 and the Long Title – were agreed to and stood part of the Bill.

THE PRISON (AMENDMENT) BILL 2005.

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

Clause 4

HON MRS Y DEL AGUA:

I gave notice that the second clause 3 should be renumbered to clause 4.

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

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

THIRD READING

HON ATTORNEY GENERAL:

I have the honour to report that:

The Investor Compensation Scheme (Amendment) Bill 2005;
The Re-use of Public Sector Information Bill 2005;
The Imports and Exports (Amendment) Bill 2005;
The Income Tax (Amendment) Bill 2005, with amendments;
The Employment (Architects) (EEA Qualifications) (Amendment) Bill 2005;
The Veterinary Surgeons (EEA Qualifications) (Amendment) Bill 2005;
The Medical and Health Ordinance (Amendment) Bill 2005;
The Prison (Amendment) Bill 2005, with amendments;

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

Question put. Agreed to.

The Bills were read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House sine die.

Question put. Agreed to.

The adjournment of the House was taken at 11.45 am on Monday 28th November 2005.

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

The Eighth Meeting of the First Session of the Tenth House of Assembly held in the House of Assembly Chamber on Friday 9th December 2005 at 2.30 pm.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

GOVERNMENT:

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

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 F Vinet - Minister for Heritage, Culture, Youth and
Sport
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:

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

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 13th October 2005, were taken as read, approved and signed by Mr Speaker.

ANSWERS TO QUESTIONS

The House recessed at 5.30 pm.

The House resumed at 5.45 pm.

Answers to Questions continued.

ADJOURNMENT

The Hon the Minister for Health moved the adjournment of the House to Monday 12th December 2005, at 11.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 7.10 pm on Friday 9th December 2005.

MONDAY 12TH DECEMBER 2005

The House resumed at 11.10 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

GOVERNMENT:

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

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:

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

ANSWERS TO QUESTIONS (CONTINUED)

The House recessed at 1.10 pm.

The House resumed at 2.35 pm.

Answers to Questions continued.

The House recessed at 5.40 pm.

The House resumed at 6.00 pm.

Answers to Questions continued.

BILLS

TUESDAY 13TH DECEMBER 2005

FIRST AND SECOND READINGS

**THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE
2005**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Criminal Offences Ordinance to implement Council Framework Decision 2001/413/JHA of 28 May 2001 on combating fraud and counterfeiting of non-cash means of payment, be read a first time.

Question put. Agreed to.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Tuesday 13th December 2005, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 8.05 pm on Monday 12th December 2005.

The House resumed at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

GOVERNMENT:

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

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 T J Bristow – Financial and Development Secretary
The Hon Miss M I Montegriffo

IN ATTENDANCE

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

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table the Gibraltar Regulatory Authority Financial Statements for the year ended 31st March 2005.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE 2005

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the primary aim of this Bill is to transpose Council Framework Decision 2001/413/JHA. It is an EU measure that is worthy of support, even though it is mandatory in any event, and pretty uncontroversial although in part

unnecessary for a reason that I will explain in a moment. The aim is to ensure that fraud and counterfeiting involving non-cash means of payment are recognised as criminal offences and subject to effective sanctions on a harmonised basis across the EU. Of course, the offences of dishonesty, and this is the extent to which it is in part unnecessary, the offences of dishonesty in Part 16 of our Criminal Offences Ordinance already covers many of the provisions of this Framework Decision. Part 17 of our Ordinance, which deals with forgery, criminalizes the forgery and fraudulent use of some documents and instruments. However, the Framework Decision requires the misuse of certain specified monetary instruments to be made a criminal offence when misuse includes possession of a stolen monetary instrument or of a counterfeit monetary instrument for fraudulent purposes. The Bill therefore makes the forgery with intent to defraud or deceive and fraudulent use of a list of monetary instruments a criminal offence. The list of monetary instruments is set out in the new section 209A and includes such commonly used instruments as bankers draft, promissory notes, credit cards and debit cards, all of which fall within the scope of the new Framework Decision. The new section also creates a power for further monetary instruments to be added by order published in the Gazette should future EU developments require this. New section 209A(2) makes possession an offence in relation to a forged monetary instrument and will also make it an offence for a person to have in his custody or control, or to sell or transfer to another person equipment for making a forged monetary instrument. Sections 221A, clause 7 of the Bill, makes provision relating to offences committed by companies and partnerships. Therefore, this is the EU's harmonised list, minimum list. It is not the case that it is not presently sanctioned by our law to defraud or deceive through the use of one of these monetary instruments, but EU law, this Framework Decision, requires it all to be transposed in Member States in this same form to ensure that the definitions, monetary instruments which are covered, are covered specifically in the laws of all the Member States. I commend the Bill to the House.

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

HON F R PICARDO:

Only to raise one point. In the final section, section 7, inserting a new 221A at sub-section (2) there is a reference in this section which deals with the directors and partners being as responsible as they would have been personally if they were directing the body corporate that is committing the offence, to bodies corporate being managed by their members, which I think is not something which is strictly possible under our law. It may be that that is necessary because of the way that the directive is framed for civil law jurisdictions, but just to point that out to see whether the Government have directed their minds to that.

HON CHIEF MINISTER:

Well, I do not agree with the hon Member that the concept is alien to our law. I think that there are several areas in which our law, I am just trying to think of specific provisions in financial services legislation, where shareholders exercise effective management and control as shadow directors, or because they are acting through nominee directors, the concept of shareholders of a company being in effective management control even though their names do not appear on the list of registered directors, is not that alien even to our Anglo-Saxon system of law. So the Government do not think that that constitutes a defect, I am just trying to see whether it is specifically derived from the directive. It must be specifically derived from the directive however, because the whole thing is. I cannot fish it out from the directive, I was scanning the directive in the hope that it would jump out at me from the page but it is obviously buried there somewhere.

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 CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Criminal Procedure 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 very short Bill which does no more than delete what is in any event an unused provision of our Criminal Procedure Ordinance. In fact, in a case that recently appeared in the Privy Council about which I will just give a little bit more background in a moment to the hon Members, the Government through the Attorney General undertook to repeal this section because the Privy Council found that although it was not unconstitutional, it seemed I cannot remember if the word was 'untidy', it showed lack of even-handedness in the legislation and that is a provision in the Ordinance which is the one that we are repealing, which entitles the prosecution to obtain an order for costs against a convicted defendant but not

the acquitted defendant to obtain an order for costs against the prosecution.

In other words, in a criminal case under our law the prosecution can seek costs against somebody who is found guilty but except in very limited circumstances, an acquitted defendant is not entitled to obtain costs against the Crown, against the prosecution. The Privy Council commented that it thought that this looked uneven handed and on instructions from the Government the Attorney General undertook in the Privy Council that the Government would remove. No one can recall the last time that the Crown sought an order for costs against a convicted defendant anyway, so it is a defunct section. That is the background of it, what the Privy Council actually said was that, and I quote, "there is an unattractive and an unjustifiable lack of even handedness in sub-sections (1) and (2) of section 232". What is sauce for the goose ought to be sauce for the gander. The unattractiveness is relieved by the fact that sub-section (1) is a dead letter and the Board was told by the Attorney General on instructions that steps will be taken to repeal it and that is where we are today. Hon Members may be interested to know that that was the case in which actually an acquitted defendant applied for an order for costs against the Crown in Gibraltar, the Chief Justice, the Crown Court refused on the grounds that there was no power to do so. The Court of Appeal ruled, on appeal, that the absence of a provision in our law entitling an acquitted defendant to obtain an order for costs was unconstitutional, in that it was tantamount to a denial of a right to a fair trial. That was appealed to the Privy Council by the Government and the Privy Council unanimously ruled against the Court, in other words, overturned the Court of Appeal's ruling. The Privy Council unanimously ruled that it was not unconstitutional or a breach of the European Convention of Human Rights provision for a fair trial that acquitted defendants should be entitled to seek an order for costs against the Crown. But during the course of making that judgement in favour of the Government, the Court made this remark about the unlevel playing field between the rights of the Crown in the case of a convicted defendant to obtain costs, and the lack of right of an

acquitted defendant to obtain costs against the Crown set against the Crown's right to obtain a costs order against a convicted defendant. That is what we are doing today, repealing sub-section (1) to delete the Crown's right to seek an order for costs against a convicted defendant. 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 later today.

Question put. Agreed to.

THE INCOME TAX (AMENDMENT) (NO. 2) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance in order to transpose into the law of Gibraltar Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States, and the amendments made to Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums by Council Directive 2003/93/EC of 7 October 2003, Council Directive 2004/56/EC of 21 April 2004 and Council Directive

2004/106/EC of 16 November 2004, and matters connected thereto, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill now before the House serves two purposes. Firstly, clause 2(1) to 2(8) transposes a number of amendments to the Mutual Assistance Directive, that is Directive 77/799, effected by Directives 2003/93, 2004/56 and 2004/106. The remaining provisions transpose the Interests and Royalties Directive which is Directive 2003/49. The Bill, in relation to the transposition of the Interests and Royalties Directive, there will be a need in due course to bring further modifications to those provisions because this directive has been amended by two others, Directive 2004/76 and 2004/66, which for technical reasons are not included in this transposition which is limited to the original Interests and Royalties Directive. The House will recall that the Interests and Royalties Directive is one in respect of which there are infraction proceedings and which we had been desisting from transposing on the basis that hon Members will recall that Gibraltar companies were not listed in the Annex, and there was extreme doubt about whether Gibraltar companies could benefit from it. That has now been clarified, the Commission has written a formal letter confirming that Gibraltar companies are indeed entitled to benefit from it in full, and that the directive fully applies to Gibraltar companies and that is why the Government are now bringing the transposition of that particular directive to this House.

Turning now to the substance of the Bill and going back to the first part, which is the transposition of the amendments in effect to the Mutual Assistance Directive regime. Clause 2 amends section 4B(3) of the Income Tax Ordinance. The entire section

has been replaced for reasons only of presentational clarity. In actual fact only paragraph (a) is new. This new provision is intended to clarify that the duty of the Commissioner when offering assistance under the Mutual Assistance Directive is 'to proceed as though acting on his own account'. Clause 2(3) amends section 4B(4). Once again the section remains largely in tact. The only substantive amendments to it are the insertion of the words 'or administrative practices' after the words 'any law' and the deletion of the words 'or using' after the words 'or collecting'. Once again these are points of relatively minor importance and are raised by the amending directives which our Ordinance now needs to reflect. Clause 2(4) amends clause 4B(5). Again this is not a huge amendment and is required again to reflect the amending directives. In essence, the words 'for practical or legal reasons to provide similar information' are replaced with the words 'for reasons of fact or law to provide the same type of information'. Although at first sight both appear to be much of the same, I suppose it is not disputable that something which is a reason of fact may not necessarily be a practical reason. Clause 2(5) amends section 4B(6)(a). The amendment is intended to clarify that any objection to the use of information put to has to be raised at the time that the information is first supplied and not subsequently. Clause 2(6) inserts a new sub-section 4B(6), this enables the Commissioner to use information obtained through Mutual Assistance Directive assistance for the collection of taxes other than that in respect of which the assistance was sought. I ought to mention at this juncture that the provision contained, in other words that this Bill at this point, contains an incorrect cross-reference. The Mutual Assistance (Taxation) Ordinance does not exist and will not exist. The Bill was drafted in that way at a time that it was intended that the provisions which we will debate later this morning, which are in the Schengen amendment Ordinance, Mutual Legal Assistance (Schengen) (Amendment) Ordinance, were going to be included in something called the Mutual Assistance (Taxation) Ordinance. In the event that did not proceed, so therefore I will be moving an amendment to replace the words 'to which the Mutual Assistance (Taxation) Ordinance 2005 applies', and replacing them, I think the hon Members

have already had the letter of amendment, with the words 'as the Minister with responsibility for Public Finance may provide by notice in the Gazette'. Clause 2(7) amends section 4B(7) by inserting a definition of 'tax'. This is merely a cross-reference to the directive. Clause 2(8) inserts a number of new sections after 4B. New section 4C is essentially administrative in scope. It imposes a duty on the Commissioner to serve a person any instrument he may be requested to by a foreign authority. New section 4D addresses the scenario where a person's tax affairs crosses a number of EU borders, in which circumstances this new provision puts in place a framework which enables joint investigation to be decided upon by the Commissioner or the Gibraltar competent authority, of that person's tax affairs.

The remaining provisions of the Bill transpose the Interests and Royalties Directive. Sub-clauses (9) and (10) make consequential amendments for the insertion into the Income Tax Ordinance of a new Part IIIA by sub-clause (11), and a new Schedule by sub-clause (12). The first provision of this new Part is section 47A and this is a definition section. New section 47B sets out the payments to which Part IIA does not apply. These include payments enabling the creditor to participate in the debtor's profits and payments treated in the source stated as distribution of property in repayments of capital. In other words, those are interest payments to which the Interests and Royalties Directive regime does not apply. New section 47C sets out the companies to which the Part does apply. In essence, the company receiving the payment must be either a Gibraltar company or an EU company and is an associated company of the one making the payment. In a nutshell, the regime created by the Ordinance is that when an associated company in one part of the EU makes an interest payment or a royalty payment to an associated company, which is a defined term meaning a minimum of 25 per cent holding in one or the other, or a common 25 per cent holding in both by a third company. When such company makes an interest or a royalty payment to the other associated company, one cannot withhold tax if it is a territory of the paying country and one must make an allowance for any tax paid if it is the receiving company, one must make an

allowance for any tax paid in the paying company. In other words, it is to prevent the double taxation in two EU countries of an interest payment or a royalty payment between associated companies, the rule is that they should be made in the country of receipt and not subject to withholding in the country of origin. New section 47D(1) makes special provisions for Greece, Spain and Portugal, who obtained derogations against this regime on account of the difficulties that their economies would risk facing with the full implementation of this directive within the timescale originally proposed. This was part of the Greece, Spain, Portugal transitional provisions on their entry into the EU. These are not new provisions, these have been there from the time of their entry. A number of amendments will be tabled and set out in the letter in relation to these Greece, Spain, Portugal provisions which actually are not accurately transposed in the Bill, and they are set out there. For example, sub-clause (1) is amended by inserting after 'shall not apply' the words 'in the case of Spain six years and in the case of Greece and Portugal' before the words that are already there. Secondly, sub-clause (3)(a) would be replaced by a new sub-clause (3)(a) as follows: 'the tax payable in Greece, Spain or Portugal on such income which (i) in the case of Greece and Portugal would be at a rate not exceeding 10 per cent during the first four years and 5 per cent during the final four years; and (ii) in the case of Spain, would be at a rate not exceeding 10 per cent or'. New sections 46E, 46F and 46G set the criteria necessary to identify the payer and the beneficial owner. New sections 47H and 47J provides for exemption certificates to be issued by the Commissioner and the supporting administrative regime. In other words, this is not automatic this regime, it has to be certificated by the competent authority in the paying country. In other words, certificated that it is an interest or royalty payment to which the directive applies. For example, a provision is made for the information to be supplied and for the circumstances in which such certificates ought to be cancelled by the Commissioner. New section 47K makes provision for the recovery of tax after an exemption certificate has been issued but the provisions of Part IIIA are subsequently found not to have been complied with. New section 47L makes provision for the repayment by the

Commissioner of tax withheld at source in respect of a payment the subject of an exemption certificate. New section 47M contains a regulation-making power. Clause 2(12) of the Bill inserts a new Schedule 2 into the Income Tax Ordinance. This reproduces Article 3A of the directive for the purposes of interpreting new sections 47A and 47F of the Ordinance. 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 later today.

Question put. Agreed to.

THE MUTUAL LEGAL ASSISTANCE (SCHENGEN CONVENTION) (AMENDMENT) ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 76/308/EEC on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures as amended by Council Directive 2001/44/EC, 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 before the House transposes Directive 1976/308 as amended. In order to rationalise the presentation of our laws and thus assist those that have to have access to it the Government have taken the view that since this legislation possesses a common policy aim with that contained in the 2004 Mutual Legal Assistance (Schengen Convention) Ordinance, the transposition of this directive ought to be incorporated into the 2004 Ordinance. In other words, they are both mutual legal assistance provisions. However, the previous one, the 2004 Ordinance, related only to Schengen, this relates to the EU which of course is a wider concept of Schengen. Therefore, the name of the 2004 Ordinance is also being changed to the Mutual Legal Assistance (EU) Ordinance as opposed to the Mutual Legal Assistance (Schengen) Ordinance as it used to be called before. Schengen is part of the EU but the EU is not co-extensive with Schengen, and therefore EU is a better phrase when an Ordinance is going to contain provisions that apply both to Schengen and to the EU. That in itself does not introduce any changes, that is just a change of nomenclature of the Ordinance.

Clause 2(5) of the Bill turns the existing Ordinance, that is to say the existing Mutual Legal Assistance (Schengen Convention) Ordinance, that converts it into Part II of the new enlarged Bill and the main provisions of this Bill before the House becomes Part III. So once we have passed this Bill, the previous content of the Mutual Legal Assistance (Schengen Convention) Ordinance will become Part II of the enlarged Bill, and what we are now making as law today would become a new Part III of that enlarged Ordinance, the name of which enlarged Ordinance will have been changed to refer to be called Mutual Legal Assistance (EU) Ordinance as opposed to what it is presently called which is Mutual Legal Assistance (Schengen Convention) Ordinance.

New clause 24, the opening clause of Part III, is the definition clause. There are a number of points to highlight here. Firstly the Minister with responsibility for Public Finance is empowered to designate a competent authority. Secondly, in order to accord the legislation the flexibility of adapting to changing circumstances, the taxes and states to which the legislation will apply will be the subject of regulations made by the Minister. New clause 25 sets out the scope of the legislation. In essence, its purpose is to assist with the recovery of claims relating to the taxes set out in Schedule 2, which includes taxes on income and capital, or rather criminal fines and penalties are not included. It is important to remember that this is not an exchange of information legislation. This is not exchange of information to enable taxes to be assessed, that is all in the Mutual Assistance Directive provisions which is already in our law. This is recovery of claims. In other words, when a tax authority in one EU country has already established a claim and there is now a debt for a tax claim, then this is a regime that requires the EU countries to help each other in collecting. That is to say, almost the nearest parallel that we have got at the moment is the mutual recognition of judgements legislation where we help each other enforce each other's court judgements. Well this is something akin to that but in relation to established tax assessments. It is not mutual legal assistance leading to the assessment of the tax, it is assistance in the recovery of tax that has already been assessed and is due under the law of another country. Of course, it works both ways, we can be asked by an EU country to assist them with the collection of their tax debts and we can ask EU countries to assist us with the collection of ours. One of the noteworthy aspects of this legislation is that following the judgement of the European Court in Case 349/03, that is the one that went against Gibraltar and the UK recently, that one of the rare cases where the Court did not follow the advice of the Advocate General which had also taken the same line as Gibraltar and the UK, we cannot desist. In other words, we cannot say 'this legislation does not apply to Gibraltar because we do not have VAT, or because we do not have capital taxes'. What the Court decided in that case that was lost was that these are not harmonising measures. In other words,

measures to assist each other in the collecting of a tax has nothing to do with whether one actually has that tax or not in their own country. In other words, it is not a measure that harmonises the Europe-wide regime in relation to the liability to those taxes. Had the Court answered that question the other way then we would not have to do that either, but the Court drew a distinction between measures that harmonise liability to the tax on the one hand, where we would not have to comply, and measures which were administrative in which it did not matter whether one was liable to the tax at all. So that is why if the hon Members look in the Schedule they will find listed there taxes that do not exist in Gibraltar, and indeed to the extent that they are EU taxes that we are excluded from, VAT, others that we do not have but not that we are excluded from for VAT purposes for example, capital taxes, we do not have them because we do not have them not because they are an EU harmonisation measure.

New clause 26 provides for assistance to be given with the recovery of claims. The clause contains a number of important qualifications. Firstly, the requesting authority has to supply substantial background information relating to the request. Secondly, our competent authority is not obliged to do anything for a requesting State which it could not do in respect of a claim owed to the Gibraltar Government, or which prejudices the commercial interests or public security of Gibraltar. Those are both directive permitted derogations. New clause 27 provides for assistance with the service of documents. Once again, assistance in this case has to be preceded by substantial background information relating to the case. New clause 28 provides for assistance with the recovery of claims by judicial means. Once again therefore, the competent authority will not possess any power in this respect which he does not enjoy in relation to a tax debt owed to the Government of Gibraltar. In other words, I think it is clear but just for the benefit of the hon Members, an EU country cannot ask the Gibraltar competent authority to do something which the Gibraltar competent authority would not have the statutory right to do on its own account collecting Gibraltar tax. So it does not sort of import any powers from the foreign country. New clause 29 sets out a

number of qualifications to the preceding clause. For example, no assistance needs to be afforded where the competent authority has reason to believe that the debt is being contested in the requesting State. So, if there is doubt as to whether this is an established tax debt and might still be contested, or may still be contested by the tax subject, then there is no obligation to provide the assistance, or for example, where the requesting State has already put in place parallel domestic recovery procedures which have proven to be successful. Again in those circumstances there is no need to give the assistance. In this respect the requesting State must supply a declaration in addition to the other information needed to be supplied, confirming that the claim is not being contested and that full recovery of the debt has not already been achieved in the home State. New clause 30 makes provision for Court orders enforcing a request for assistance. In other words, it is not just a question of the Commissioner receiving, or the competent authority receiving a letter and going off to take enforcement action. The enforcement action has to be ordered by the Gibraltar court as well.

New clause 31 makes consequential provision including methods of payment to be included. In other words, the methods of payment also have to be included in the Court order. New clause 32 is a general sweep-up clause. For example, it includes the duty to maintain the applicant authority informed of the developments at all times, the duty to keep the competent authority informed of any challenges to the debt, and the right of the competent authority to apply for interlocutory measures, where a claim is being contested and the applicant authority nevertheless requests the competent authority to assist with recovery and the debtor ultimately wins his case, provision is made for the applicant authority to remain liable for costs. New clause 33 provides for exceptions to the duty to provide assistance. These include old debts, that is debts which are more than five years old, conflict with public policy and where the competent authority does not possess the necessary powers in relation to domestic debts. New clauses 34 and 35 provide for limitation periods and the need to maintain confidentiality

respectively. New clause 36 provides for all requests for assistance to be in English. New clause 37 establishes the principle that the costs of recovery are to be borne by the debtor. No claim will subsist as against the applicant authority save in limited circumstances, such as where a large amount of costs are to be incurred. New clauses 38 and 39 make provision for subsidiary legislation. New clause 40 imposes the duty to inform the Commission of the adoption of the Ordinance. Schedule 2 sets out the taxes and levies referred to in new clause 25(2).

I have given notice of amendments to certain provisions of this Bill. The first one is that clause 29(2)(a) is amended by deleting the word 'information' and substituting it with the word 'recovery'. The following clauses are amended by deleting erroneous cross-references to clause 29(5)(c) and substituting it with reference to 29(1)(a). The seven places where that appears are listed in paragraph 2 of my letter. New clause 34(2) is amended by inserting the words 'where had it been carried out by the applicant authority' after the words 'the period of limitation applicable'. Also by deleting the words 'where had it been carried out in that Member State' appearing after the word 'situated'. The reason for this amendment is that the clause as it currently exists is confusing. The amendment is intended to clarify that the relevant limitation period is that subsisting in the applicant state. New clause 37(4) is amended by deleting all words appearing after the words 'for any costs incurred where' and substituting therefore the words 'the substance of the claim or the validity of the instrument issued by the applicant authority are held to be unfounded'. The purpose behind this amendment is to ensure that the wording of the clause remains faithful to the directive language, avoiding any unnecessary scope for misinterpretation. Finally, the opening sentence of new Schedule 2 is amended by deleting the references to section 3(2) and substituting with the reference to section 25(2) which is the correct reference, I will be moving those amendments at the Committee Stage. I commend the Bill to the House.

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

HON J J BOSSANO:

There are just two points that I would like clarification on. One is, this does not apply to EEA States that are not in the EU then? Normally now for some time directives have been applied to the European Economic Area as opposed to the EU. Secondly, if the previous Bill that we are now incorporating into this one, the existing law the 2004 one, was the legal assistance that we have to provide in the case of Schengen members and now we are legislating for the whole of the EU which includes the Schengen members, is there something that only applies to Schengen but not to the non-Schengen?

HON CHIEF MINISTER:

Yes, the bits that were in the 2004 Ordinance only applied to Schengen and continue to apply only to Schengen and all that becomes Part II of the new enlarged Ordinance. All of this that we are doing today goes into a Part III of the Bill and that applies to the whole EU, including Schengen. So Part III has wider application than Part II. I am advised that in answer to the first of the hon Member's observation, these particular directives like the Mutual Assistance Directive of which it is a family member, apply only to EU and not to EEA.

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 NO. 2) ORDINANCE 2005

HON J J NETTO:

I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance to transpose parts of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, be read a first time.

Question put. Agreed to.

SECOND READING

HON J J NETTO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is to partly transpose Council Directive 2003/35/EC, commonly referred to as the public participation directive. The public participation directive requires amendment of five legislative instruments. Of these the following have already been amended: (1) the Public Health (Air Quality Limit Values) Rules; (2) the Public Health (Air Quality Ozone) Rules; (3) the Pollution Prevention and Control Ordinance. The necessary amendments to the Town Planning (Environmental Impact Assessment) Regulations are being

drafted. The House will therefore recollect that the purpose of the public participation directive is to amend a substantial number of directives, some of which apply to Gibraltar, in order to make EU law compliant with the UN Economic Commission for Europe Convention (UNECE) on access to information, public participation in decision making and access to justice in environmental matters, commonly referred to as the Aarhus Convention. The EU is a signatory to the Aarhus Convention in its own right and is therefore required to align its legislation into Aarhus. The net effect of the public participation directive is that a statutory consultation scheme and provision for access to justice is introduced into existing directives, either by way of direct amendment or through their inclusion in the Annex of the directive. The Bill before the House relates to one such directive listed in the Annex, namely Council Directive 75/442/EEC of 15 July 1975 on waste. The waste directive was transposed in 1995 through the insertion of Part VA into the Public Health Ordinance. The Bill is therefore necessarily limited in scope and merely seeks to effect the changes that will require a statutory consultation where waste management plans are made or where these are reviewed. The current waste management plans require a review in approximately four years time, and in accordance with the provisions of this Bill, public consultation will take place. The Environment Ordinance also makes public consultation a requirement in respect of certain plans and programmes. In the circumstances, provision is made by the insertion of sub-section (2)(e) so that the obligation to consult twice does not arise. 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 J J NETTO:

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

Question put. Agreed to.

THE GIBRALTAR ELECTRICITY AUTHORITY (AMENDMENT) ORDINANCE 2005

HON F VINET:

I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Electricity Ordinance 2003, 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 amends the Gibraltar Electricity Authority Ordinance of 2003 in order to incorporate into the Gibraltar Electricity Authority those areas of responsibility that were initially excluded under Schedule 1, Part 2, clauses 1(a), (b) and (d). These areas, namely those serviced by the generation and electro-technical divisions, were excluded at the time of passing of the Bill by the House of Assembly on 28th March 2003, because the relevant personnel within these areas had not transferred to the Gibraltar Electricity Authority at the time. Following successful negotiations with the Unions, the generation and electro-technical divisions, transferred to the Authority on 1st February 2004, and therefore this amendment aims to incorporate the areas previously excluded. The amendment also includes under Schedule 1, Part 1 the addition of two new paragraphs, namely, 1(a) and 1(b). Paragraph 1(a)

recognises that as from 1st February 2004 all matters related to the generation and sale of electricity were transferred to the Authority, and 1(b) that as from 1st April 2003, all matters related to the provision of electrical services and works as specified and requested by Government, comes under the responsibility of the Authority.

I would like to give notice that I will be moving a minor amendment to the Long Title, which presently reads, 'a Bill for an Ordinance to amend the Gibraltar Electricity Ordinance', it should read, 'to amend the Gibraltar Electricity Authority Ordinance'. I commend the Bill to the House.

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

HON L A RANDALL:

Just to say that the Opposition will be abstaining. We will thus be consistent with the way we voted when in 2003 this House considered the Bill which created the Authority.

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

Abstained: The Hon J J Bossano
The Hon C A Bruzon
The Hon Dr J J Garcia
The Hon S E Linares

The Hon F R Picardo
The Hon L A Randall

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 will be taken at a later date.

COMMITTEE STAGE

HON ATTORNEY GENERAL:

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

1. The Criminal Offences (Amendment) Bill 2005;
2. The Criminal Procedure (Amendment) Bill 2005;
3. The Income Tax (Amendment) (No. 2) Bill 2005;
4. The Mutual Legal Assistance (Schengen Convention) (Amendment) Bill 2005;
5. The Public Health (Amendment No. 2) Bill 2005.

THE CRIMINAL OFFENCES (AMENDMENT) BILL 2005

Clauses 1 to 6 – were agreed to and stood part of the Bill.

Clause 7

HON F R PICARDO:

The proposed amendment to 221A first of all it needs a capital 'w' in the first letter of the sentence. In section 221A(1)(a) after the words "body corporate" insert the words "and it"; and in section 221A(1)(b) after the word "partnership" in the first line insert the words "and it".

HON CHIEF MINISTER:

I am not sure that is necessarily right, I agree it is not brilliant language construction. Forget the (a) and the (b) and read (a) together with the prefix, which is a prefix to both (a) and (b). 'Where an offence under this Part has been committed by a body corporate is proved to have been committed with the consent or connivance of or' and he is suggesting that we should put what? 'Where an offence under this Part has been committed by a body corporate and'. Well certainly I think it improves the language, I do not think it necessarily does not read without it but certainly the suggestion improves it. We are happy to agree to that.

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

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

THE CRIMINAL PROCEDURE (AMENDMENT) BILL 2005

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

THE INCOME TAX (AMENDMENT) (NO. 2) BILL 2005

Clause 1

HON CHIEF MINISTER:

I have given notice to amend but I do not know whether to take these amendments as read, I do not know if I should read each one of them out but there is an amendment there to clause 1 as per the letter. So that should read the Income Tax (Amendment) (No. 3) Ordinance and not (No. 2).

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

Clause 2

HON CHIEF MINISTER:

In clause 2 at sub-clause (6) there is an amendment which is to delete the words "to which the Mutual Assistance (Taxation) Ordinance 2005 applies" and substitute with the words "as the Minister with responsibility for public finance may provide by notice in the Gazette."

In the new clause 47D(1) in the first line after the word "apply" we should insert the words "in the case of Spain 6 years and in the case of Greece and Portugal". Then further down the page in the new clause 47D(3)(a), after the word "income" add the words set out there in the letter: "(i) in the case of Greece and Portugal will be at a rate not exceeding 10% during the first four years and 5% during the final four years; and (ii) in the case of Spain, will be at a rate not exceeding 10%; or".

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 MUTUAL LEGAL ASSISTANCE (SCHENGEN CONVENTION) (AMENDMENT) BILL 2005

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

Clause 2

HON CHIEF MINISTER:

In clause 2 again it is the same point as before. I think I am right in saying that all the amendments now fit into clause 2 of the Bill. Again they are set out in my letter but on page 866, that is sub-clause (6) in Part 2 the word “Part” in sub-clause (6) it should be “Ordinance”, and in sub-clause (7) the first word “Part” should be “Ordinance” as well but not the second one.

HON F R PICARDO:

Just before we move on to the other substantive amendments, I just want to note that we are actually going to change the date of the Ordinance that we are amending to make it an Ordinance dated, at least the Short Title of which will be 2005, so we are going to end up having started with the Mutual Legal Assistance (Schengen Convention) Ordinance 2004 with the Mutual Legal Assistance (European Union) Ordinance 2005. Now, changing the Title is perfectly all right of course, there is provision for that, I think it is the first time I have ever come across actually changing the date of the Ordinance. There is no form of power to do that. It is not the date itself that is being changed, because obviously the date is the date in which it was passed in the House the first time, and today will be the date of the amendment but we are changing the title to reflect a date of 2005. I just want to note that that is the first time I have ever seen that done and would be comforted if I am told that we are able to do it.

HON CHIEF MINISTER:

In fact, in Gibraltar there is no relevance in a year appearing in the date, the name of the Ordinance is what matters and indeed the hon Member may recall or he may not because it has fallen into disuse, I remember when I first arrived in legal practice the date of the year was almost never referred to, it was the chapter number, cap this or cap that in the laws of Gibraltar. The date, that is to say the year because it is not a date, 2004 is a year not a date, a date would require a month and a day in the month, it is not a date of the legislation, it is no more than part of the name. It might just easily have no year at all. This could very easily be called the Mutual Legal Assistance (Schengen Convention) Ordinance and need not have been called (Schengen Convention) 2005 Ordinance. It is odd to change the name of an Ordinance and not change the name insofar as a year is referred to in the name. He may not have seen it before, indeed, I am not sure this may be the first time we have changed the name of an Ordinance before.

HON F R PICARDO:

We changed the Long Title in the last House.

HON CHIEF MINISTER:

No, this is the Short Title, I am not sure that we have done the Short Title. The Long Title does not name the Ordinance, what names the Ordinance is the Short Title. I do not recall having changed a Short Title before, which is not to say that we have not done it simply that I do not recall it. In any case, the 2005 or 2004 is just another word in the nomenclature of the Bill. There is no question of the need for power to do so or right to do so, it is as if we just had another word there, so there is absolutely no reason why we should not change the name of the title in this respect. It is not necessary to do so, we could change the rest

of the name and leave the 2004 in place but no issue arises one way or the other.

So the next amendment is the deletion at page 872 of the Bill, at sub-clause (2) of new section 29, a request it says for information and that word "information" is to be deleted and replaced with the word "recovery". So it would read "a request for recovery". Then in a number of places reference to 29(5)(c) should be a reference to 29(1)(a) and they are at 30(1), (2) and (3); 32(2), (5) and (8); and 36(b). In clause 34(2) after the word "applicable" we should insert the words "where had it been carried out by the applicant authority" and we should delete the words "where had it been carried out in the Member State" in the next line. In sub-section 37(4), we should delete all the words after 'for any costs incurred where' and those words should be replaced by the words "the substance of the claim or the validity of the instrument issued by the applicant authority are held to be unfounded." Finally, in the second Schedule on page 881 in the opening line of it, the reference to section 3(2) should be a reference to section 25(2).

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

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

THE PUBLIC HEALTH (AMENDMENT NO. 2) BILL 2005

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

THIRD READING

HON ATTORNEY GENERAL:

I have the honour to report that the Criminal Offences (Amendment) Bill 2005, with amendments; the Criminal

Procedure (Amendment) Bill 2005; the Income Tax (Amendment) (No. 3) Bill 2005, with amendments; the Mutual Legal Assistance (Schengen Convention) (Amendment) Bill 2005, with amendments; and the Public Health (Amendment No. 2) Bill 2005, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Question put.

The Criminal Offences (Amendment) Bill 2005;
The Criminal Procedure (Amendment) Bill 2005;
The Income Tax (Amendment) (No. 3) Bill 2005;
The Mutual Legal Assistance (Schengen Convention) (Amendment) Bill 2005; and
The Public Health (Amendment No. 2) Bill 2005,
were agreed to and read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Tuesday 20th December 2005, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 11.20 am on Tuesday 13th December 2005.

TUESDAY 20TH DECEMBER 2005

The House resumed at 10.05 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Haresh K Budhrani QC)

GOVERNMENT:

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

ABSENT:

The Hon Miss M I Montegriffo

IN ATTENDANCE:

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

BILLS

FIRST AND SECOND READINGS

THE GAMBLING ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to repeal the Gaming Ordinance and the Gaming Tax Ordinance and to make new provision for licensing, regulating and taxing, betting, gaming and lotteries, 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 before the House contains provisions which are, in the Government's view and in the view of the gaming industry, necessary to modernise Gibraltar's gambling legislation and create a new statutory, licensing and regulatory framework for this increasingly important sector of our economy. As the House is aware, the gambling industry has become a

valuable contributor to Gibraltar's economy. In addition to the well-established onshore casino and betting shops there are currently 15 internationally owned gaming companies operating from Gibraltar. These create significant employment, utilise our telecommunications and other services and generally raise Gibraltar's level of economic activity, including significant contributions to Government revenue. Current legislation is contained in the Gaming Ordinance and various regulations made thereunder. Although we have successfully developed and grown within the framework provided by the current Gaming Ordinance it has become evident, especially over the last few years, that a significant modernisation of our legislation is appropriate to accommodate a growing sector. The current Ordinance was enacted in 1958 and is currently out of date and in need of revision. I should add that other European countries have recently also initiated the process of modification of their gaming legislation, and in particular to make provision for the regulation of internet gambling and gambling services as provided to domestic and international clients. The Bill will replace not only the Gaming Ordinance but also the Gaming Tax Ordinance. It is under the terms of the Gaming Tax Ordinance that the current level of betting duty, calculated at 1 per cent of turnover but subject to a minimum floor of £85,000 per year and a maximum ceiling of £425,000 per year is levied. Government have decided it is more sensible for the licensing, regulation and taxation of gaming and betting activity to be provided for under the same Ordinance. It is likely, however, that initially only the Gaming Ordinance will be repealed and the substantive licensing and regulatory aspects of the new Gambling Ordinance will be brought into effect. Separate provision by way of regulation thereunder will be made in relation to duties and levies, at which time the Gaming Tax Ordinance will be repealed.

The Bill makes provision for the issue of a number of different types of licences. In particular, it should be noted that a specific licence will be required in relation to remote gambling activities. In the Bill remote gambling activity is defined as gambling in which persons participate by means of remote communications.

That is to say, communication using the internet, or the telephone, or the television, or the radio, or any other kind of electronic or other technology for facilitating communication. Given the particular requirements arising from remote gambling, special provision is made in Part VI of the Ordinance to which I will refer in more detail later. The Bill makes provision for both a licensing authority and a gambling commissioner. The licensing authority will be empowered to grant licences and impose such terms as appear to the authority to be appropriate in any given circumstances. It is intended that the licensing authority shall be the Minister with responsibility for gambling or such other individual or body as the Minister may appoint. The gambling commissioner is intended to be the Gibraltar Regulatory Authority. The commissioner will be responsible for ensuring that the holders of licences conduct their business in accordance with the terms of their licences, the provisions of the Ordinance and in such manner as to maintain the good reputation of Gibraltar. In the exercise of the commissioner's duty he will be required to consult with the Minister and in appropriate cases with licence holders. In other words, in a nutshell the Minister will be the licensing authority but the Gibraltar Regulatory Authority will be the regulator of the industry.

The Bill is divided into various parts. As indicated previously, some parts deal with non-remote betting and gaming with specific provision being made for non-remote lotteries. I can confirm that no change is envisaged to any of the practical arrangements in respect of the Gibraltar Government Lottery. Specific provision for remote gambling is contained in Part VI of the Bill. These arise from the special requirements of an industry which deals with international clients and which relies on very sophisticated information technology infrastructure. Among the various matters covered is the need for remote gambling equipment to be accredited by approved testing houses. Such accreditation will ensure the fairness and integrity of all equipment used and number generation systems. The Ordinance also makes general provision with regard to the minimum permitted age for gambling. As the House is aware,

there is currently no minimum age prescribed in Gibraltar with regard to gambling. In general terms the minimum age in respect of lotteries is set at 16 and in respect of other gambling activity at 18. There is however power reserved to the Minister to vary the minimum permitted age having regard to different classes of gaming and different circumstances. In other words, circumstances may arise in which whilst it is thought to be okay for the minimum age to be 18, some forms of gambling may be thought to be all right for persons under 18. For example, scratch cards or things of that sort and there is therefore the power to moderate the age, lower the age if it is generally thought that for a particular type of gambling the age should be less than 16. The Bill also includes a number of enforcement and investigation powers to support the functions of the licensing authority and the gambling commissioner.

I should like to highlight, as I will in more detail in a moment, the transitional provisions of the Bill. These provide that a Gaming Ordinance authorisation, that is to say an existing authorisation, shall upon enactment of this new Bill have effect as if it were granted or entered into by the licensing authority under the new Ordinance. It is intended therefore that there will be a seamless transition from the old legislation to the new Ordinance without the need for current operators to have to apply for new licences. It is envisaged that the licensing authority will issue new licences to existing operators without the need for specific application as soon as practical. The Bill makes detailed provision in relation to the application process and the requirements generally to be followed when applying for or seeking a renewal of a licence.

In respect of the more detailed principles of the Bill, hon Members will have seen that clause 2 is the main interpretation clause and contains several important definitions. The most important are the definition of the gambling commissioner, which takes the reader to clause 6; the definition of licence, which takes the reader to clause 3; and the definition of licensing authority which takes the reader to clause 5. In other words, the definitions of those terms are by reference to a regime created in the particular clause of the Bill. Of course the other most

important of all definitions is the definition of the term "remote gambling". Clause 3 of the Bill sets out the various types of licences required by the Bill, and that all licences must specify not only the holder of the licence but also the premises on which the activity permitted by the licence may be carried on. Clause 4 deals with the imposition of terms on a licence and the power of the licensing authority to permit the holder of a bookmakers licence to take bets by telephone, which is a form of remote gambling. In other words, the definition of "remote gambling" is gambling via any method of communication, which includes the telephone. But of course it is historically the case that onshore bookmakers sometimes take bets on the telephone, and clause 4 specifically provides that when an onshore bookmaker takes a bet by telephone, that will not be regarded as remote gaming so he will not require a remote gaming licence in addition to his bookmakers licence. The clause also introduces Schedule 1 which in addition to dealing with applications and the forms of the licences, contains provision about the grant and renewal of licences and certain notification requirements. Clause 5 provides for the licensing authority to be the Minister or such individual or body as he may appoint. Clause 6 provides for the Gibraltar Regulatory Authority to be the gambling commissioner for the purposes of this legislation.

Part II of the Bill deals with the regulation of non-remote betting and betting offices. Non-remote in relation to gambling is defined in section 2(1) as being gambling which is non-remote gambling, so everything turns on the phrase remote gambling, that is at the core of the regime of this Bill. In effect, non-remote gambling relates to betting by persons in Gibraltar with other persons in Gibraltar primarily on a face to face basis. Essentially, the provisions cover the same areas as two clauses of the present Gaming Ordinance, but the provisions of the Bill are of course drafted in terms of the new licensing system established by the Bill. So there is not a huge change in substance in relation to non-remote gambling but there is a modernisation of the terminology of the legislation. Clause 7 corresponds to section 5B of the present Gaming Ordinance, in its requirement for every bookmaker to have a bookmakers

licence. Clause 8 corresponds to section 5A(1) of the present Ordinance in providing that premises used for bookmaking purposes must be premises covered by the bookmakers licence. This is a reflection of clause 3(5) of the Bill. Clause 9 of the Bill corresponds to sub-sections (2) and (3) of section 5A of the present Ordinance. It penalises people who for betting purposes frequent premises which are not covered by a bookmakers licence. Clause 10 on the other hand, does not reflect any provision of the present legislation. It imposes a requirement that a person carrying on pool betting must hold a pool promoters licence. Part III of the Bill deals with non-remote gaming and gaming establishments, as opposed to non-remote gambling or bookmaking. As with Part II some of the provisions of Part III have their origin in the present Gaming Ordinance. Clauses 11 to 13 make provision which broadly corresponds to that previously made by sections 3, 4 and 5 of the Gaming Ordinance. Clause 11 requires any person managing, conducting or providing facilities for gaming to hold a gaming operators licence. Clause 14 of the Bill excludes from the requirements of a gaming licence, gaming conducted "on a social occasion" in private houses. The exclusion depends upon the fulfilment of various conditions set out in the body of the Bill. Clause 15 relates to gaming machines and provides that any person who keeps a gaming machine on any premises, or allows such a machine to be kept on premises, must have a gaming machine licence covering those premises. This provision corresponds to that made by sections 3A and 5 of the present Gaming Ordinance. Part IV of the Bill relates to three types of non-remote lotteries. They are listed in clause 16 of the Bill and are (1) a Government lottery; (2) a lottery of a description specified in Schedule 2 of the Bill; and (3) a lottery promoted by a person who holds a lottery promoters licence. The substance of the provisions of Part IV correspond closely with those of sections 6 to 12 in Part II of the existing Gaming Ordinance. Clause 17 empowers the Government to promote and conduct a lottery, that is to say, a Government lottery and confers various supplementary powers on the Minister. Clause 18 provides that after paying out prize money, the proceeds of a Government lottery are to be paid into the Consolidated Fund.

Clause 19 empowers the Minister to make regulations prescribing matters relating to Government lottery. These provisions are mainly the same as the present legislation. Clause 20 relates to the lottery specified in Schedule 2. On an application to the licensing authority the applicant may be authorised by the authority to conduct a lottery of a description specified in Schedule 2. Clause 21 contains a number of offences which police the earlier provisions of Part IV of the Bill.

Part V consists of one clause only. In relation to non-remote gambling Clause 22 prohibits a person from acting as a betting intermediary unless he is the holder of a betting intermediary's licence. Part VI establishes the regulatory regime for conducting remote gambling from Gibraltar. So this is the main part that deals with the regulations of the remote gambling industry. Clause 23 imposes the requirement that anyone conducting or providing facilities for remote gambling must hold a remote gambling licence. The only exceptions are: (1) the taking of telephone bets by the holders of a bookmakers licence, which specifically authorises taking of such bets; and (2) the taking of orders for the sale of lottery tickets by the holder of a lottery promoters licence, which similarly specifically authorises the taking of such orders. Clause 24 explains what is meant in the Bill by conducting or providing remote gambling in or from within Gibraltar, and that really is the crux of this part of the legislation. Clause 25 is concerned with the safeguarding of the integrity of computer equipment used to facilitate the carrying on of remote gambling. In particular, it requires the holder of a remote gambling licence to send annually to the gambling commissioner a certificate that the equipment has been tested by a testing house approved by the commissioner. Now this is vital to the jurisdictional reputation, most virtual gaming is conducted by machines and therefore one's chances of winning or not winning are directly related to the calibration and the functioning of a machine. It could be a virtual horse race which somebody might have seen on television, or it could be a casino, a poker game. All of these games, they are not human beings playing against human beings, these are machines playing against human beings. So unless the machine is

subject to regular calibration checks, verification procedures, the people playing that machine may not be getting a fair crack at the whip, so to speak. So, the certification by approved testing houses, of which there are a few around the world, of the integrity and condition of the equipment is a vital piece of the integrity and therefore the jurisdictional reputation of Gibraltar as a base for virtual gaming activities.

Clause 26 requires a licence holder to supply information to the gambling commissioner with respect to the supplier and specification of software which is used by the licence holder for the purposes of remote gambling. The information is to be supplied on receipt of a request from the gambling commissioner, describing the software in respect to which he requires information and the information is to be supplied in such form and manner as is specified in the request. Clause 27 deals with responsible gambling, another important part of this legislation. Sub-clause (1) requires the licence holder to contain on the home page a direct link to the website of at least one organisation dedicated to assisting problem gamblers. Sub-clause (3) requires the licence holder to take various steps to guard against problem gambling. Clauses 28 to 30 deal with the registration of participants in remote gambling sites. Clause 28 requires the holder of remote gambling licences to obtain and keep up to date a register of specific information related to persons who participate in the gambling, and also to inform participants of their individual responsibility to ensure that under the law of the jurisdictions which governs them personally, they are legally entitled to engage in the remote gambling provided by the licence holder from Gibraltar. Under clause 29 every licence holder must provide the gambling commissioner with such information relating to the accounts of registered participants, as the commissioner may by notice reasonably require. Under clause 30 information relating to a registered participant may not be disclosed to a third party except in three cases which are set out there. In clause 31 the situation is dealt with where there is an interruption in a remote gambling transaction as a result of a failure of the licence holder's remote gambling equipment or telecommunication equipment. So one

can envisage the situation where somebody is taking part in a poker game, or in a virtual horse and there is a failure of the system and the virtual gaming activity is interrupted and cannot be concluded after the punter has already paid his stake. The clause provides for refunds of stakes in appropriate cases, and for notification to the gambling commissioner of any failure which cause detriment to a participant or if there is any suspicious circumstance. Equally, if the licence holder believes or suspects that an interruption to a transaction has been caused or effected by some illegal activity, he may withhold any prize pending an investigation. The matter must be reported to the gambling commissioner who may direct the payment of the prize or confirm the withholding. Clause 32 requires any website maintained by a licence holder to contain certain information, including particulars relating to himself and to his business address. It also empowers the Minister to prescribe rules with respect to the advertising of the activities carried out under any remote gambling licence.

Clause 33 is concerned with money laundering or other illegal acts arising in connection with remote gambling. Under sub-clause (1), where the licence holder becomes aware or reasonably suspects that a participant has obtained a benefit as a result of any illegal conduct, he can take action in relation to the account of the participant concerned. The rest of the clause is concerned with ensuring that the facts of any money laundering or other illegal activity are notified to the gambling commissioner and that appropriate action can be taken by the law enforcement bodies of Gibraltar. Finally, the licence holder is required to cooperate in investigations arising out of any illegal activity which he is called upon to notify to the commissioner. Part VII, as explained in clause 34, sets out certain obligations common to all licence holders under all parts of the legislation. Clause 35 seeks to ensure that the rules under which the licence holder runs his gambling operation are brought to the attention of those who seek to participate in gambling with it. Clause 36 imposes a duty on a licence holder to establish a system of internal controls and procedures to seek to prevent money laundering and other suspicious transactions

by persons taking part in remote gambling conducted by the licence holder. Clause 37 requires licence holders to take all reasonable steps to prevent underage gambling, another quite important part of the regulation of this industry. Winnings which would otherwise be due to a person who is underage are forfeited to the Government and paid to the Consolidated Fund, provided that the winnings paid or payable to an underage gambler before the licence holder became aware that he was an underage gambler shall not be forfeited to the Government. Therefore, what is forfeited to the Government are the winnings with somebody who is known to be an underage gambler. Otherwise, it is not enough simply to say one does not have to pay the winnings, because that would make the gambling industry a beneficiary. It almost suits them to blow the whistle, if they have to make a big pay out they will say, 'no you are a minor' and they get away. So there has to be some degree of forfeiture in the worst cases otherwise there is no deterrent whatsoever.

Clause 38 requires the licence holder to inform the gambling commissioner of the place where his transaction records are to be kept and requires those records to be kept in such a manner as to enable true and fair financial statements and accounts of his business to be prepared and audited. Every licence holder is required to provide the gambling commissioner with a copy of his audited financial statements and accounts together with any additional information which the commissioner may request in writing. Clause 39 is concerned with ensuring that every licence holder maintains banking arrangements which are for the time being approved by the licensing authority. Before giving any such approval, the licensing authority is required to consult the gambling commissioner. Clause 40 requires every licence holder to inquire promptly into any complaint from a participant concerning a transaction, and also any complaint referred to the licence holder by the gambling commissioner. In other words, there is a mechanism there by which people gambling with Gibraltar remote gamblers can complain. Clause 41 requires every licence holder to pay such charges, fees and gaming taxes as may be prescribed by the Minister, all the sums due are

to be paid into the Consolidated Fund. In other words, this is the clause under which the Gaming Tax Ordinance will be replaced by a new gaming tax regime established under regulations made under this clause. Under Part VIII, which deals with administrative provisions, clause 42 empowers the Minister after consulting with the licensing authority and the gambling commissioner, to appoint investigators to look into the affairs of any licence holder suspected of carrying on business contrary to the provisions of the Ordinance. The inspectors are given wide powers of entry and search of premises and associated powers to obtain information. There is a criminal penalty for obstruction or failure to comply with the requirement of the inspector. Clause 43 gives the licensing authority power to suspend or revoke a licence. In principle, by virtue of clause 44, a licence may be suspended or revoked on any ground on which a renewal of it could be refused under Schedule 1. Additionally, sub-clause (6) of clause 43, under that clause the licensing authority can suspend or revoke a licence immediately if the licensing authority considers that the licence holder is carrying on his activities in a manner prejudicial to the public interest. The power in sub-clause (6) of clause 43 can be exercised without prior notice but in all other cases, that is to say, other than the public interest, in all other cases the licensing authority must give notice to the licence holder of the intention to suspend or revoke the licence, and give him an opportunity to make representations. As an alternative to revoking or suspending a licence, the licensing authority may add, remove or amend a term to the licence.

Under clause 45 a Justice of the Peace, on being satisfied that gambling is taking place on any premises contrary to any provisions of the Ordinance, may issue a warrant authorising the gambling commissioner or any person designated by him, including a police officer, to enter the premises and search for, seize and remove for possible use in a criminal prosecution any material documents, money and other material or instruments of gaming. Clause 46 produces the substance of section 15 of the Gaming Ordinance but that clause applies only to prize competitions in newspapers. Clause 46 covers prize

competitions conducted in any media. Clause 47 is a general provision making it an offence for a licence holder to fail to comply with the obligations in Parts VI and VII of the Bill. Clause 48 establishes the level of penalties appropriate on summary conviction and on conviction on indictment for the majority of offences under the Bill. Part X contains supplementary provisions. Clause 51 provides that the decision of the licensing authority on matters relating to the grant, renewal, suspension or revocation of licences, or the addition, removal or amendment of any terms of a licence are final and conclusive. This form of words does not prevent the possibility of judicial review. So in other words, the form of appeal allowed for is by way of judicial review which under the rules of our judiciary cannot be excluded by legislative provision. In other words, where a legislation says final and conclusive in respect of the decision of any particular authority, what it is really saying is that the promoters of the legislation, in this case the Government, have chosen that the means of approval of appeal shall be by means of judicial review. In other words, that the court shall have an opportunity to decide whether the decision was made in breach of some law or other. In other words, that the decision was not lawful in substance or that it was unreasonable in process or procedure leading to it. Clause 52 gives the Minister power by regulation to appoint a gambling ombudsman to carry out functions specified in the regulations.

Clause 52 contains transitional provisions. Clause 55 provides for the repeal of the existing legislation, namely the Gaming Ordinance and the Gaming Tax Ordinance. The Schedule to the Bill, Schedule 1 contains the details about applying for the grant and renewal of a licence under the Bill. The required documentation will be prescribed by regulations. Under paragraph 4 a licence holder or an applicant for a licence is required to obtain in advance the approval of the licensing authority to any proposal which would have the effect of making a material change in relation to the responsible person. Under paragraph 5 the licensing authority is given power, after notice to a licence holder, to add, remove or amend a term of a licence. Under paragraph 6 there are provisions for the renewal of the

licence and the mechanics for the renewal of a licence. Schedule 2 when taken with clause 20 of the Bill, reproduces the provisions of the present Schedule to the Gaming Ordinance, with one exception. The various types of lottery listed in the Schedule must not offer prize monies or money prizes, but bingo or tombolas run by the type of club, charity or society listed in paragraph 2 of the Schedule, can offer money prizes in their lottery. That regime is designed to ensure that the present sort of things that go on in the community can carry on without this being used as a loophole by others to set up what are lottery businesses disguised as charitable activity.

I would simply add to that extensive and detailed review of the principles, and I do so in such detail because it is an important piece of legislation, we are moving legislation forward very considerably in an important area of activity. Gibraltar is and seeks to be, and by this piece of legislation will remain at the forefront of this industry on a global basis. The other thing that I would add is that I have been in very close consultation with the gambling industry throughout the last two months in relation to the drafting of this legislation, and I am pleased to confirm that it meets with their entire approval and support. 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 later today.

Question put. Agreed to.

THE STAMP DUTIES ORDINANCE 2005

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to provide for the levying of stamp duties in certain cases, 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 principal objective of this piece of legislation is to implement the budget measures that I announced in relation to stamp duty, but the opportunity is also taken to modernise certain aspects of our Stamp Duties Ordinance, many of which derive from 1933 which is when the original language that survives in the present Stamp Duties Ordinance derives from. Therefore, the main provision of this Bill is to sweep away from liability to Stamp Duty all instruments, it is important to bear in mind that stamp duty is not a tax on transactions, it is a stamp on instruments governing transactions, so it sweeps away stamp duty on all instruments except those relating to three types of transaction, two of which the Government would have happily swept away too but the Finance Centre industry advised the Government that there was a benefit because other countries would only recognise certain things if there was an element of charge in Gibraltar. Basically, what the Government would otherwise have done is sweep away stamp duty in Gibraltar for everything except instruments relating to transactions relating to real estate property in Gibraltar. So the transactions that are left subject to stamp duty, and everything else is removed by the Bill in front of the House today, is transactions relating to instruments relating to transactions relating to real property situate in Gibraltar and also

the transfer of ownership of any vehicle or legal entity when and to the extent that it owns real estate property in Gibraltar. So the rule is, that if one sells the share of a company stamp duty on the transfer of shares is abolished, but if the company whose shares one is transferring owns a property in Gibraltar, then one pays stamp duty as if what was being transferred was the property. Hon Members will immediately realise the purpose of that, it is to prevent people from putting properties in companies and then dealing in the companies and thereby avoiding liability to Stamp Duty. But not limited only to companies, there are other sorts of legal entities which can be used as vehicles for the ownership of assets, unit trusts, all manner of things, so hon Members will see in a moment how this is achieved when I take them through some of the principal provisions of the Ordinance.

The two elements where we have left, and I think hon Members will recall that we introduced this in a brief Bill about two months ago because the industry was keen for this to happen quickly, which Bill by the way is now repealed and the same provision incorporated in this Ordinance, is the fixing at £10 flat the nominal share capital duty and the nominal duty on loan capital of Gibraltar companies. With the exception of those three things, this Bill abolishes stamp duty on all other types of instruments. By way of modernisation the Bill also abolishes the concept of paying stamp duty through adhesive stamps. In other words, in the past one has been able to pay stamp duty either through embossing the document with that sort of red legal-looking stamp that one might have seen on the top of a document, or by buying the postage stamps to the same value and sticking them on the document. The latter method has been abolished so now all stamp duty is payable through the Stamp Duty Commissioner by the embossment of the necessary amount of stamp duty or the affixing by the Commissioner of a certificate to the effect of the stamp duty. Another old provision in the legislation that has been abolished, which I suppose derives from the fact that in 1933 there was no air mail and everything came by donkey or equivalent, is that there was a rule that liability to stamp duty on a document did not arise until the document reached Gibraltar. So one had 30 days from the

date that the document reached Gibraltar, that is no longer necessary in this day and age of air mail and of couriers and of electronic mail, and therefore that rule is abolished, there is no longer any period of grace whilst the document arrives in Gibraltar but the period for stamping any document, whether it is signed in Gibraltar or not, is extended from 30 days to 40 days.

Another provision that the hon Members will wish to take note of are the new penalty provisions, I will take them through in a moment, but basically the penalty regime now is tougher than it used to be. It is now the payment of the duty, as it always was, and this is new, 10 per cent of the duty payable or £100 whichever is the greater and interest at the rate of 5 per cent if the duty payable is more than £1,000. There are in section 40 anti-avoidance provisions and those are important too. There are important repealed provisions, which I will take the hon Members through in a moment, and important transition provisions. The Schedule sets out the changes to the rates of stamp duty for real estate transactions which I will take the hon Members of the House briefly through in just a moment.

So, turning to the substance of the Bill itself, there are of course many amendments to the index at the front of the Ordinance to reflect the substantial amount of amendments to the Bill itself. The first important provision is the Title and Commencement. Sub-section (2) says that any duty paid or payable between 1st July and the repeal of the present Ordinance, other than on Gibraltar real estate transactions, will be repaid or remitted. The first important new definition is the definition of "Gibraltar real property investment" and the significance of that concept is that that is the definition that eventually, when we get to the body of the legislation, will charge to duty property when it is owned in a vehicle, in a legal person, as opposed to a natural person, the shares of which are transferred. The other definition which is relevant to that regime, in other words, the regime whereby shares remain subject to duty to the extent of the value of an underlying Gibraltar property, is the definition of "relevant body", which when read together with the terms "Gibraltar real property investment" and the term "investment", are the three definitions

that are relevant to that regime. So there is a whole load of deletions to reflect all the things that are no longer relevant because of the abolition of stamp duty on so many of the transactions on which it is presently due, commercial agreements, bills of exchange and all that sort of thing. All those definitions go out, much of the language where the language of the old Ordinance continues to apply in the sense that there is a continuing part to duty, the language has been left unchanged however old it might be. In other words, we have wanted to keep to a minimum the changes that have to be made to a regime and to statutory provisions with which practitioners, both legal and real estate, are familiar.

So, clause 16 of the Bill is the clause that establishes, as I said earlier, the new penalty provisions for late payment. I should perhaps just have mentioned the earlier provisions. Old section 8, which of course is no longer present hence the abolition achieved, old sections 7 and 8 dealt with adhesive stamps, all that is there. So when I say that the payment of stamp duty by adhesive stamps has been abolished, what has happened is that the sections that used to provide for it are no longer in this Ordinance, and that is how the abolition is achieved. In clause 16, there is the new regime at the moment, the penalty for non-payment of stamp duty, is the payment of the unpaid duty a penalty of £10 and interest at 5 per cent, provided the duty unpaid exceeds £10. We have added by way of penalty an amount equal to 10 per cent of the duty payable or £100 whichever is the greater, and we have increased the amount of duty that must be due before interest becomes payable, to £1,000 from £10. So there is some give and some take.

Those Members of the House who are familiar with the old Ordinance will know that were sections, whole rafts of sections which have disappeared obviously, dealing with the stamping of agreements and appraisements, and instruments of apprenticeships and bank notes, and bills of exchange, and bills of lading and bills of sale, and bonds and contract notes and all manner of different types of instruments, which of course have all been swept away consequent upon the abolition of stamp

duty on that type of instrument. The relevant clause in relation to the business of Gibraltar real property investment, is new clause 24(7) which reads: “where a Gibraltar real property investment consists of an investment representing real property in Gibraltar, and also represents other property or is in a relevant body owning real property in Gibraltar and also owning other property, ad valorem duty is to be charged and paid on the basis that the consideration is a sum equivalent to the value of real property in Gibraltar, that is to say, as if the property being sold were the real property in Gibraltar.” Now that is significant in two different ways. First of all, not only are we excluding from the abolition of stamp duty, not only are we leaving subject to stamp duty the transfer of shares in a company and other types of entity, when that company or entity owns a Gibraltar property, but we are saying that the value of that share transfer for stamp duty purposes is the gross value of the Gibraltar property. So, if one has a company that owns a Gibraltar company, worth £100,000, but also has corporate debts of £100,000, the shares in the company would theoretically be worth nothing because they are shares in a company with assets matched by liabilities, so the shares are worth zero. Nevertheless, a transfer of those shares will be subject to duty on the gross value of the Gibraltar real estate property, ignoring all the other assets and all the other liabilities of the company that owns it. So it will be treated as a transaction to convey the property and effectively would not be treated as a transaction relating to shares, because normally the stamp duty payable on a share transfer relates to the consideration paid for those shares. That consideration paid for those shares would normally take into account the value of those shares, the value of the shares in turn takes into account not just the assets of the company and its commercial prospects but also its liabilities and its debts and its other things which are on the other side of the balance sheet as negative to value rather than positive to value. I am sorry that I am not being more fluent but I am just trying to pick out, for the benefit of the House, and explain the more important of the provisions whilst not delaying on what are really consequential on the abolition of stamp duties.

I think that the next important provision is to be found in the transitional section. I should just point out that the hon Members will see, for example, at new section 37 hon Members will see at new sections 36 and 37 the provisions that we passed recently in an Ordinance relating to capital duty on shares and things of that sort, and there is no change there. I suppose another noteworthy amendment is that at the moment there are certain provisions in the main body of the Ordinance as to the stamp duty regime as it applies to the amalgamation of companies and also to the reconstruction of companies. Those provisions are swept away and replaced by a regulation-making power because it is proposed to re-enact those in the form of regulations rather than having them in the principal body of the legislation. As I said, there are at clause 40 important powers to the Minister to make regulations to plug any loopholes that clever lawyers may find to avoid these new regimes, so there are what are generally called anti-avoidance provisions which allow us to plug holes as fast as we spot them to make sure that the revenue raising ability of this legislation is not prejudiced by clever structuring of transactions by lawyers and others. The next noteworthy provisions of the Bill is at clause 48, the transitional provision, from which the hon Members will see at section 49 rather, a transitional arrangement that we have included in this legislation to protect from any increase real estate transactions that have in effect already been contracted. So there is a quite complicated but we think reasonably effective regime that maintains stamp duty, or rather protects from any increase so that if one is a zero transaction one benefits but if one pays higher, one is not exposed to the higher and the regime is as follows. Where in respect of the sale of a property subject to duty an agreement has been entered into on or before the 9th December 2005, then provided that all of the conditions stipulated in sub-section (2) are satisfied, upon completion of the sale contracted under the terms of that agreement, the instruments of transfer shall notwithstanding any provision of this Ordinance imposing a charge at a higher rate, be charged to duty at the rate of 1.26 per cent which is the current rate. The conditions referred to in sub-section (1) are the following, a copy of the agreement has been delivered to the Commissioner by

midday on the fifteenth working day after the date of commencement of this Ordinance, and upon completion of a purchase and sale, the purchaser and transferee of the property subject to duty shall be the same as the purchaser named in the agreement. In other words, that this benefit is given for the benefit of the person who has already committed himself and not if they traffic in that agreement at a huge profit, they do not benefit from it in those circumstances by selling the contract on to another purchaser. In this section, (a) "agreement" means an agreement for the purchase and sale, or if a property subject to duty is under construction or not yet constructed and the vendor is the developer thereof, a reservation agreement upon which a non-refundable reservation fee of at least £2,000 shall have been paid; (b) is signed by both the purchaser and the vendor; and (c) is entered into in good faith and at arms length between a bona fide vendor and a bona fide purchaser, and a judgement of the Commissioner of Stamp Duties and his decision on any fact, circumstances or other matter relevant to this transitional provision, shall be final and conclusive.

In conclusion, the other main provision of this Bill is to be contained in the Schedule which those hon Members who are legal practitioners will know, is where the rates of duty are to be found. Of course many of them are swept away consequent on the abolition of stamp duty on many instruments. The two principal provisions of the Schedules are that in the case of a conveyance, what people would normally think of as a sale of property, there is instead of a flat 1.26 per cent on all transactions, there is a scale and it is important to hear what I am about to say, that hon Members bear in mind the exact new wording. In other words, what is relevant is not for the purposes of these thresholds is not the consideration of any particular instrument but the value of the whole of the property, because otherwise if for example, if there is a threshold between zero and £160,000 one pays nothing and between £160,000 and £200,000 one pays something else, one could always have zero by simply selling one's property in 10 instruments, each of which was worth less than £160,000, each of which pays zero per cent but together one could have sold the house worth £1.6 million

because stamp duty as a transaction is a tax on instruments and not a tax on transactions. So obviously it is necessary to make sure in introducing a scaled regime, that we also guard against that, which did not apply before because everything was at 1.26 per cent, so one did not have that opportunity, one would have paid 1.26 per cent on each slice of the transaction. So, where the value of the whole property subject to duty does not exceed £160,000 a sum equivalent to zero per cent of the amount to value, because one can do it in as many or in as few documents as one likes, or stages as one likes, what is relevant to deciding the exemption of the threshold into which one falls, is the underlying value of the whole property. So if one sells half of a property worth £300,000 the consideration for that transaction may only be £160,000 but one will not be exempt because what counts is the fact that the whole property is worth £300,000. So subject to that explanation, which I will not repeat now in all the thresholds, the regime is zero duty, abolition of stamp duty where the property is worth less than £160,000 or less, maintain the 1.26 per cent where the value of the property is between £160,000 and £250,000, increased to 1.6 per cent where the value of the property exceeds £250,000 but does not exceed £350,000, and increased still further to 2.5 per cent where the value of the property exceeds £350,000. The second change to the rate relates to stamp duty payable on mortgages. At the moment the duty payable on a mortgage is 0.13 per cent, that is thirteen hundredth, just over one tenth of one per cent, on the amount secured. In other words, on the amount that one owes the bank that is secured by that mortgage. That is under the terms of this Bill, maintained at that level where the amount due to the bank, where the debt secured by the mortgage does not exceed £200,000, but where the amount due to the bank exceeds £200,000 it is increased, the stamp duty on the mortgage is increased from 0.13 per cent to 0.2 per cent on the basis that these are high value transactions. Remember we are talking about a debt in excess of £200,000 that must relate to a property worth more than £200,000 because the bank will not lend 100 per cent, so one is necessarily talking about high value transactions and not talking about the sort of mortgages that most normal or even normal plus wage earners in Gibraltar

would be taking. In other words, it is a very low amount of stamp duty, 0.2 of 1 per cent.

The other thing that we have done, but bearing in mind that it no longer applies to commercial agreements and commercial contracts, is that we have increased all the references to 3p and 50p in the Ordinance to £5 but bearing in mind that those now only apply to real estate transactions, because they are the only transactions to which stamp duty as a whole now applies. This Bill is the last piece of the jigsaw of the legislation that I explained to the House we would be putting in place in order to mitigate the closure of the exempt status company regime, part of which related to the benefits that exempt companies could obtain by way of exemption from stamp duty. I commend the Bill to the House.

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

HON F R PICARDO:

The Opposition Members support the Bill presented by the Chief Minister but there is one issue in particular that we wish to highlight. In the existing Ordinance at section 19(3), there is provision for the Commissioner if he thinks fit to mitigate or remit any penalty payable on stamping. That is now reproduced in section 16(3), given the omission of the two other sections that the Chief Minister has referred to, and I have given notice of a number of amendments I intend to move at the Committee Stage. The substantive issues are in my (iv) and (v). One can see in the new 16(3) as it is presently numbered, that that power of the Commissioner continues to exist where he can exercise it if he thinks fit, but we see the introduction of the words “and with the consent of the Minister”, which were not in the existing Stamp Duties Ordinance. We would like to know why it is that the Chief Minister thinks that it is proper that there should be a provision for a Minister to consent to the exercise of a discretion that is presently simply in the hands of the Commissioner for

Stamp Duties. A similar point arises but not identical in new sections 44 and 45 of the Bill which deal with the provision in almost identical terms to the provisions in sections 104 and 105 of the existing Stamp Duties Ordinance. We support the fact that the power contained in sections 44 and 45 of the Ordinance is a power which was previously in the Governor and is being taken away from the Governor. We believe that the power is of such a nature that it should not be the Minister but it should be the Commissioner for Stamp Duties. It is the power to relate to penalties and rewards and to make allowance for misused stamps. There is power, power which is in our view perfectly right and proper in the Minister, in section 46 in sub-section (f) to set out the circumstances by regulation in which the Commissioner may in fact mitigate or remit fees. So the Minister can set out the objective criteria when that should occur for the Commissioner to determine but as the Ordinance is presently framed, the power in section 44 is kept entirely in the hands of the Minister. Perhaps the mover could tell the House why the Government consider that it is appropriate that that power should be in the hands of the Minister and not in the hands of the Commissioner, for the Commissioner to determine objectively based on the criteria laid down by the Minister in regulations whether or not it should be exercised. Other than that we have no substantive points.

HON CHIEF MINISTER:

I am obliged to the hon Member, all of them, for their support for the Bill. I hear what the hon Member says but I have to say that I do not agree with him and we will not be supporting those particular amendments when he moves them. In relation to section 16(3), where at present there is a power on the Commissioner if he thinks fit and to the consent of the Minister to mitigate or remit any penalty payable on stamping, we do not agree that that should be left as it is. First of all, we have not given the power to mitigate or remit to the Minister. I am not suggesting that the hon Member implied that but I just want to leave clear that we are not transferring to the Minister the power

to make the decision to remit or mitigate stamp duty. The power to mitigate or remit, the decision to mitigate, remains exclusively but he cannot exercise it without the Minister's consent. We just do not think that officials should be allowed to give away Government revenue on a case by case basis without having regard to Government policy on the matter. Bear in mind that at the moment the Commissioner of Stamp Duty is a quasi-Government Minister in the person of the Financial and Development Secretary, that will not be the case in the future, it will be somebody else. It will be somebody designated, perhaps the Managing Director of LPS or somebody like that, who I think should not be, there seems to be some dispute on this side of the House as to whether he is still technically the Commissioner of Stamp Duties or not, we will establish it one way or the other in a moment. Certainly, we think it is right that there should be some oversight of those who otherwise would have an unbridled power to say, "you pay stamp duty on this transaction but you do not on a similar transaction". That is the logic. In any event, we see that there is no harm whatsoever in the exercise by one person of a power being subject to the consent of the other. I have to say that I would not think it wrong for the Minister to have the power of mitigation and often has, there are many areas of law where such a power is vested in a Minister. Lots of things but this does not go that far, but even if it had gone that far, I would not think it particularly untoward, but as I say it does not go that far and therefore is nowhere near the sort of where some people might think the line is properly to be drawn on what a Minister should do or what a Minister should not do. So perhaps we can just agree to differ on that. In relation to sections 44 and 45, well, as a matter of policy whenever something used to be done, albeit as long ago as 1933, by the Governor and it is to be done by somebody else, I think the policy is that what used to be done by the Governor is now done by a Minister. [*HON F R PICARDO: There is support.*] Yes, but he does not support giving it to the Minister, he wants it given to the Commissioner. I do not think I have, subject to being corrected, I do not recall any other incidence where we have deprived the Governor of a function and given it to somebody more lowlier than a Minister. I

suppose this might have been the first example of it but certainly up till now the rule has been that when we replace the word "Governor" in this House it is always for "Minister". Why it is Governor in the first place of course is another matter. This could easily have been "Commissioner" in the first place but I think I would rather not depart from the precedent. I do not think any of these points are so great, I am grateful to the hon Members for what is a helpful approach otherwise to this Bill, which is actually now quite urgent because first of all the Finance Centre needs it in place soon and then I am told that there are some real estate transactions which people were sitting on, waiting to pay less, some of them may end up paying more but anyway. I think for those reasons it is important to get on with it. I am obliged to them.

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.

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 Gambling Bill 2005.
2. The Stamp Duties Bill 2005.
3. The Gibraltar Electricity Authority (Amendment) Bill 2005.

THE GAMBLING BILL 2005

Clauses 1 to 43 – were agreed to and stood part of the Bill.

Clause 44

HON DR J J GARCIA:

There is one point in relation to clause 44. The point is that the clause refers to clause 45(6) of this Bill which does not actually exist. I think it should be 43(6).

HON CHIEF MINISTER:

Yes, I am grateful to the hon Member it should be 43(6).

Clause 44, as amended, was agreed to and stood part of the Bill.

Clauses 45 to 55, Schedules 1 and 2 and the Long Title – were agreed to and stood part of the Bill.

THE STAMP DUTIES BILL 2005

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

Clause 2

HON F R PICARDO:

I have given notice of a minor amendment here in the definition, I think, capitalised 'R's' and 'P's' have crept in.

HON CHIEF MINISTER:

If ever I need a proof reader I shall know where to go, but I agree.

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

Clauses 3 to 14 – were agreed to and stood part of the Bill.

Clause 15

HON F R PICARDO:

In sub-section (2) there is a reference to "the Treasury". Now I have just raised the point that perhaps we should delete the word "Treasury" and put there for the words "the Accountant General" which appears later in the Bill. There are provisions for payment to the Accountant General. The Accountant General is easy to determine in law, the Treasury I am not able to find a defined term of in the legislation. It may be that someone else has found one where I have not.

HON CHIEF MINISTER:

I think it is a useful observation. I think the phrase “pay into the Treasury” is a UK phrase, I do not know where it has come from, is it in the original Act? Perhaps there is an even better improvement because paying it to the Accountant General still does not say where it goes. One can pay to the Accountant General and then from there into a Government company. Perhaps it should say “shall be paid into the Consolidated Fund” which is the usual formula that we use when we mean that it should be paid into the Government General Account. So whilst I am grateful to the hon Member for spotting the rather unusual references to payment into the Treasury, perhaps he would agree then that rather than his proposed amendment it should be “shall pay into the Consolidated Fund”.

HON F R PICARDO:

I wrestled with Government General Account, Consolidated Fund and Accountant General. I only trumped for Accountant General because it appears later on in the text but I have no difficulty with the proposed amendment, and it is by the way in the original text so it is very ancient drafting.

HON CHIEF MINISTER:

In 1933 stamp duty was paid to the HM Treasury in the United Kingdom, who knows?

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

Clause 16

HON F R PICARDO:

This appears in the original text of the Bill. It is a very strange legislative style where one goes from 16(1) straight into an (a) and then 16(1) (b). What I am proposing, simply to make it easier, and there are no cross-references backwards that would be affected, is that we should have a 16(1), a 16(2) which would deal with 16(1)(a) and 16(1)(b) at the moment, and then just renumber sub-section (2) and sub-section (3) as they are now to sub-section (3) and sub-section (4), which is the much more modern practice to make it easier to cross-reference to sub-sections.

HON CHIEF MINISTER:

Whilst I have no objection to the secretarial reorganisation of the language, it would depend on the hon Member being absolutely certain that there are no cross-references anywhere. This is not an Ordinance with a huge number of cross-references it has to be said anyway. I can accept the amendment provided that we can agree that any cross-referencing that may exist that he has not spotted, is also secretarial in nature and can be sorted out at the printing stage and not brought back to this House.

HON F R PICARDO:

Yes, the only cross-reference that I have been able to find to section 16 is that Schedule 2 refers to it being made under section 16 but it does not say sub-sections.

HON CHIEF MINISTER:

Well, I do not mind section 16(1)(a) can be section 16(1), (b) can be section 16(2), (2) can be sub-section (3) and (3) can be sub-section (4).

HON F R PICARDO:

In relation to section 16(3) the Chief Minister has kindly dealt with the points that I raised as substantive points. He did say that one of the reasons for objecting to or not agreeing to the deletion of the words “and with the consent of the Minister”, was that an official should not be able to determine for himself whether or not to remit and give away in that way Government funding. Can I just remind him, I did not want to interrupt him when he was replying, that in fact he has the power by regulation or the Minister would have the power by regulation at section 46(f), to actually set out in the regulations in what circumstances the Commissioner would be able to remit or mitigate fees in any event, if that in any way affects his considerations. Other than that, given what he said in reply, I will not move my amendment.

HON CHIEF MINISTER:

I am grateful to him. In any event, it would now be an amendment to section 16(4), see immediate cross-reference.

Clause 16, as amended, was agreed to and stood part of the Bill.

Clauses 17 to 38 – were agreed to and stood part of the Bill.

Clause 39

HON F R PICARDO:

The amendment of which I have given notice is simply to add the word “any” in front of “official receipt” because at the moment it reads “and the number of official receipt given in respect thereof”. I think it should be “the number of any official receipt given in respect thereof.”

HON CHIEF MINISTER:

I am grateful to the hon Member for pointing out the correct fact that there is a word missing there. I think it should be “the” rather than “any” because “any” suggests that there may not be an official receipt. There has to be an official receipt and that is the number that has to go in there.

HON F R PICARDO:

The only reason I put “any” was in case there might be two official receipts which need to be referred to on the same document. Perhaps because I am still thinking of the days when one could pay stamp duty in two parts. Given the stamping provisions it is now only going to be possible to pay them in one go. So perhaps “the” works now where it would not under the old one.

HON CHIEF MINISTER:

Well, we would agree to “any” too but I think “the” would be a better amendment.

I think to be consistent with the amendment to section 15(2), we might put there the Consolidated Fund too instead of Accountant

General, that is presumably the section where the hon Member said it appeared. The first reference to the Accountant General should be “shall be paid into the Consolidated Fund”, so the word “to” becomes “into”, “the” remains and “Accountant General” becomes “Consolidated Fund”. But only on the first occasion, the second reference to Accountant General is correct because we are talking about the person who does the certificate or the endorsement.

Clause 39, as amended, was agreed to and stood part of the Bill.

Clauses 40 to 49 and Schedule 1 – were agreed to and stood part of the Bill.

Schedule 2

HON F R PICARDO:

The word “the vendee” appears under the heading “person liable to pay”, now that is actually in the original legislation, it is almost impossible these days to find a definition of “vendee”. I consulted five dictionaries and found it only in one and it is not included in legal dictionaries. The vendee is obviously the purchaser as we now know him and I think that although I can see why it is that in many instances a lot of case law surrounds the existing wording, no case law that I am aware of, and I think the hon Gentleman will agree, would turn on whether we refer to somebody as a “vendee” or a “purchaser”, and the word “purchaser” I think is the one that is much easier for anybody who might consult the legislation to understand.

HON CHIEF MINISTER:

I agree. I suppose the same might be said of mortgagor or mortgagee but people understand that more clearly, but I agree.

It is a word that has fallen into disuse in the English language and should not be contained in a 2005 Gibraltar Ordinance.

Schedule 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 GIBRALTAR ELECTRICITY AUTHORITY (AMENDMENT) BILL 2005

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

The Long Title

HON F VINET:

I gave notice during the Second Reading that the word “Authority” is to be inserted after the word “Electricity”, so that it reads, “an Ordinance to amend the Gibraltar Electricity Authority Ordinance 2003”.

The Long Title, as amended, was agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY GENERAL:

I have the honour to report that the Gambling Bill 2005, with amendment; the Stamp Duties Bill 2005, with amendments; and the Gibraltar Electricity Authority (Amendment) Bill 2005, with amendment , have been considered in Committee and move that they be read a third time and passed.

Question put.

The Gambling Bill 2005; and
The Stamp Duties Bill 2005, were agreed to and read a third time and passed.

The Gibraltar Electricity Authority (Amendment) Bill 2005 –

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 F R Picardo
 The Hon L A Randall

The Bill was read a third time and passed.

ADJOURNMENT:

The Hon the Chief Minister moved the adjournment of the House sine die.

Question put. Agreed to.

The adjournment of the House was taken at 11.35 am on Tuesday 20th December 2005.