

**REPORT OF THE PROCEEDINGS OF
THE GIBRALTAR PARLIAMENT**

The Twelfth Meeting of the Tenth Parliament held in the Parliament Chamber on Monday 26th February 2007 at 10.00 a.m.

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 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 Lt-Col E M Britto OBE, ED - Minister for Health

The Hon Miss M I Montegriffo

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 27th October 2006, were taken as read, approved and signed by Mr Speaker.

MINISTERIAL STATEMENT

HON CHIEF MINISTER:

Mr Speaker, I should like to make the following statement. Mr Speaker, we on this side of the House are delighted on the occasion of this, the first sitting of this House, under the new Constitution which establishes its new status and nomenclature of Gibraltar Parliament, to lay in this House the text of the Gibraltar Constitution Order 2006. Annex I comprises our new Constitution; Annex II makes provision relevant thereto. Following the multi-party negotiation carried out with Her Majesty's Government in the United Kingdom, following the work of the Constitutional Select Committee of this House, I am similarly delighted that by a vote of 60 per cent in favour the

people of Gibraltar accepted the clear advice of the Government and shared our view that this Constitution represents a good Constitution for Gibraltar, was good for Gibraltar, and voted to accept it. For the first time ever the United Kingdom has recognised in our Constitution that the people of Gibraltar enjoy the right of self-determination in terms of the United Nations Charter. Furthermore, the United Kingdom has recognised and acknowledged that our Referendum in November last year constituted an exercise of that right of self-determination. In consequence, Gibraltar now enjoys a modern and mature constitutional relationship with the United Kingdom which is not based on colonialism. We are thus effectively decolonised. These factors, coupled with the other reforms in the Constitution, and with the fact that the new Constitution continues to enshrine our veto over any change in our sovereignty, means that we now have a Constitution that provides a stable and sound political and constitutional basis for enduring links with Britain into the future. This in turn provides Gibraltar with a stable basis for our continued economic and social development and for the realisation of the whole range of our collective aspirations as a people. Our new constitutional relationship with Britain is thus both solid and sustainable. As hon Members on both sides know, Britain has made it clear that this Constitution represents as much self-government as she is willing to contemplate while Gibraltar remains of British sovereignty. We wish to retain our British sovereignty and this Constitution, therefore, now enables us to stop feeling and acting as a people on a never ending journey or crusade to establish an acceptable constitutional status. We are where and what we want us and our small country to be a self-governing British Gibraltar with a modern, non-colonial Constitution with Britain and its recognition of our right of self-determination as a people and territory, enshrined in our Constitution. Since this House is now formally a Parliament and not an Assembly and is now called the Gibraltar Parliament, it is right that the precincts of the House should now be known as Parliament House and that its members should now be known as Members of Parliament or MPs, and that in keeping with the practice in Parliaments throughout the democratic world,

Members should use the letters "MP" behind their names in formal use and references. Already the architecture of certain public affairs is in the process of change to reflect the provisions of the new Constitution. Hon Members will recall that one of the principal innovations of the new Constitution is the formal reversal of the principle of defined powers. Hence, the Gibraltar Government and its Ministers are now formally and constitutionally responsible for all matters, except external affairs, defence and certain aspects of policing and civil service matters. The principal areas where direct Ministerial responsibility is thus constitutionally imposed on Ministers, is public finance and justice. The Government have already announced the creation of two new Ministries – the Ministry of Finance and the Ministry of Justice and Home Affairs. The Ministry of Finance will comprise the Treasury Department, the Income Tax Department, the Customs Department, the Finance Centre Department and the Gambling Department. The Ministry will be responsible for the economy, public finances (including Government budgeting), Government expenditure and Government revenue, taxes and duties, gambling and financial services. The Chief Minister, who already has Ministerial responsibility for all of these issues, formally now becomes then the Minister of Finance. The Accountant General becomes the Head of the Ministry of Finance, with the new title Financial Secretary. He will be based at No. 6 Convent Place with other Finance Ministry officials. The Head of the Treasury Department will be a Senior Officer grade with the title Accountant General. Each of the constituent departments of the Ministry of Finance will retain its current Departmental Heads. The Ministry of Justice and Home Affairs will include responsibility for justice, civil protection (including civil contingency, police issues and crime and fire brigade), the prison, immigration, residence and personal status and civic rights. For the time being I will assume Ministerial responsibility for justice and I retain responsibility for police issues, immigration, residence and personal status as has hitherto been the case. Responsibility for civil contingency, fire brigade, the prison and civic rights remains with the Minister currently responsible for those portfolios. In due course, however, all of

these portfolios will become the responsibility of a single Minister for Justice and Home Affairs. The Financial and Development Secretary has now ceased to be a constitutional office. The office continues to exist as a statutory office until appropriate legislative amendments are made. Tim Bristow, the current Financial and Development Secretary, therefore continues to perform the statutory though not the constitutional duties and functions of that office. In connection with the establishment of the Ministry of Justice and with the establishment in the Constitution of a Judicial Service Commission, the latter to give advice to the Government in all matters of judicial appointments and discipline, the Government will very shortly publish a Bill for a Judicial Service Act. The Bill went to consultation in draft form to the Treasury late last week. Government will also publish this week a Bill for an Act which will replace, with appropriate references, all those references in our existing legislation to the words "Ordinance", "House of Assembly", "Financial and Development Secretary", "Deputy Governor", "Gibraltar Council" and some of the references to "Attorney General" and most of the references to "Governor", which by the new Constitution require such amendment. A little later on the Government will also publish a Bill for an Act to amend our electoral legislation, to accommodate the fact that the next General Election must result in the election of 17 and not the current 15 Elected Members of Parliament. The new Constitution also has one provision which affects the conduct of the legislative business of this House. Whereas under the old Constitution the Government had to publish Bills only seven days before they could be debated and passed in this House, that period has now been increased to six weeks. This means that Members will have a very much longer period of time to consider Bills before they are debated in this House. It also means that the Government must, internally, re-organise its own affairs so that draft Bills are available and published that much sooner. An obvious and significant example is the Appropriation Bill, which is usually published much later before the Budget Debate and now the Government will have to publish it, and thus prepare it and its underlying figures, much sooner and much earlier than has hitherto been the practice. Since we are

effectively within 12 months or so of a General Election, it may not be appropriate for wholesale change to the Standing Orders of this House to take place in what remains of this Parliament. But the workings of this House, its systems for organising its agenda of business in general and its Question Times in particular, also require modernisation to be made more relevant to the needs of Gibraltar and to the workings of a modern and sophisticated Parliament. The Government is content, if the Opposition also is, to begin exploratory work in this regard through the Standing Orders Select Committee of the House. In the meantime, I have moved those amendments to the Standing Orders that follow upon the introduction of the new Constitution, and principally, upon the disappearance as Members of this House of the Attorney General and the Financial and Development Secretary. There is a motion standing in my name to this effect which we will debate after Opposition questions in this meeting. Obligated.

HON J J BOSSANO:

Mr Speaker, dealing with the latter part of the announcement by the Chief Minister, obviously the changes in the work the Government operate under the new Constitution is a matter for the present Government and is not a necessary part of the constitutional changes that take place. That is to say, a different Government may organise its affairs differently, and I think that needs to be put on the record so that it is not assumed that the only way to do it is the way that it is being done. The Constitution, of course, does indeed modernise the one that existed in 1969, and the one that existed in 1969 in turn modernised the one that existed in 1964. At each of those stages, indeed, the level of self-government Gibraltar obtained by negotiation with the United Kingdom was the level that the United Kingdom at that particular point was willing to give. That is to say, it was that level which the United Kingdom then considered to be compatible with continued British sovereignty of Gibraltar at that time. That is not a phenomenon which we have experienced for the first time or in the first place with this

Constitution in Gibraltar, because precisely the same terminology has been used by Lord Triesman who is responsible for the other territories, about the constitutional changes taking place in those other territories. Indeed, contrary to the approach of this House and the Select Committee set by us, which was to set out to draw proposals which would have the effect of decolonising us, the United Kingdom's perception of the exercise that has taken place reflected in public statements made by the United Kingdom in the United Kingdom Parliament and, indeed, in the Despatch to His Excellency the Governor, is that what we have done in agreeing this Constitution is fulfil the invitation issued by the United Kingdom in the 1999 White Paper to all its territories, including Gibraltar, to come up with proposals to produce a modern relationship between the colony and the administering power. The United Kingdom is of the view that even without these constitutional changes, neither Gibraltar nor anybody else on the UN list of territories that are non self-governing should still be there, on the basis that the changes that have been taking place over the years should have been enough for that list to have been done away with. Therefore, the United Kingdom has said it is not prepared to do anything further on that question. However, what remains to be seen is whether the United Kingdom's position in the Fourth Committee in October this year is compatible with the concept that the status of Gibraltar today is not the status that existed in October last year, because if the United Kingdom comes up with Spain with the same consensus decision that they did a year ago, and that they have done every year since the 1984 Brussels Agreement was welcomed by the United Nations in 1985 as the process under which Gibraltar's future status as a decolonised territory would be determined and agreed, then in fact, this Constitution is not the end of the road as the Chief Minister thinks to seem it is because that is still something on which the jury is out and we shall see, to use the terminology with which he is familiar, how the jury votes in October this year. We, of course, will place our arguments before the United Nations on the basis that I have already signalled which is, that if this Constitution that we have today falls short of what is required to be decolonised, as long as the

rules that the UN applies to Gibraltar's decolonisation are identical to those that it applies to all the other non self-governing territories, then we wish to pursue with the United Kingdom that the changes that bring us into line with what is required from any other territory that chooses to decolonise other than by independence, all of which have the right, whether the United Kingdom accepts it or does not accept it, the position in the Charter of the UN and in the UN Declaration on Independence, to which the United Kingdom has subscribed in the past makes very clear, and the Committee of 24 has made very clear, that it is up to the people of the territory to choose the route, not up to the colonial power. Therefore, we choose not to pursue independence but that does not mean that we are not entitled to achieve that level of self-government which gives us that credibility in terms of being exactly the same as any other territory would be expected to have by the United Nations. The United Nations applies the same rules to us as to anybody else, that is precisely what we want, and therefore, unlike the Government's view that what we should do is try and persuade the United Nations to change its concepts and its criteria, to say this is acceptable in our case, we believe that we should ask them to tell us what it is that is wrong in this Constitution, or deficient in this Constitution, or falls short of the standards in this Constitution, and then pursue with the United Kingdom whatever further amendment may be required. If, in fact, the position had been as clear cut as we intended to be when we put our proposals to London and when we agreed it and approved it in this House, I am sure that the turnout in support of the Constitution would have not been as low as it was – which was the lowest Referendum we have ever had in our history. We are, of course, well aware that this Constitution brings in changes in the way the business of legislating in Gibraltar is done, which in many cases are a reflection of putting in the Constitution what had been allowed to take place in practice. That is because in all the other territories, except Gibraltar, the United Kingdom has been unwilling to move with the times. It has been unwilling to move with the times because of the Spanish dimension, because they were not prepared to upset Spain, and it would appear that because on this occasion

they obtained a welcome from Spain to this Constitution, they did not have that particular problem. Of course, almost every single other British colony has, since 1969, its Constitution amended and modernised and, therefore, has been having a process of getting closer and closer to full self-government, whereas we have had to move in one step to cover thirty odd years of a stagnant Constitution. I am sure that in this new Constitution the existing Members of Parliament and the future Members of Parliament will work in accordance with their judgement of what is best for our country. I am sure that with this Constitution, or with an amendment to this Constitution, or with whatever follows, Gibraltar will eventually achieve what it is entitled to achieve, as every other colony that has preceded us and every other colony that is still on that list, and that is, the fullest measure of self-government compatible with what the people of Gibraltar want, which is to maintain their relationship with the British Crown.

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table:

1. The Report and Audited Accounts of the Gibraltar Bus Company Ltd for the period 25th September 2003 to 31st March 2005; and
2. The Consolidated Fund Supplementary Funding – Statement No. 2 of 2006/2007.

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.15 p.m.

The House resumed at 2.35 p.m.

Answers to Questions continued.

ADJOURNMENT

The Hon the Minister for Trade, Industry, Employment and Communications moved the adjournment of the House to Thursday 1st March 2007, at 9.30 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 4.40 p.m. on Monday 26th February 2007.

THURSDAY 1ST MARCH 2007

The House resumed at 9.30 a.m.

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 J J Netto - Minister for the Environment
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon C Beltran - Minister for Housing

ABSENT:

The Hon Miss M I Montegriffo

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

ANSWERS TO QUESTIONS (CONTINUED)

SUSPENSION OF STANDING ORDERS

HON J J HOLLIDAY:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with a Government motion.

Question put. Carried.

GOVERNMENT MOTION

HON J J HOLLIDAY:

The Hon the Chief Minister gave notice on 15th February 2007 that he proposed to move the following motion at this meeting of the House. I will now read the motion on his behalf:

“Following the coming into operation of the New Constitution, THIS HOUSE RESOLVES that the Standing Rules and Orders attached to the Resolution and initialled in each page by the Speaker by way of identification thereof, be adopted as the Standing Rules and Orders of the Parliament in substitution of the Standing Orders and Rules made on 10th December 1964.”

In order to assist the House to identify the proposed changes, a marked copy is enclosed herewith with the motion.

ADJOURNMENT

The Hon the Minister for Trade, Industry, Employment and Communications moved the adjournment of the House to Thursday 29th March 2007 at 9.30 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 10.40 a.m. on Friday 2nd March 2007.

THURSDAY 29TH MARCH 2007

The House resumed at 9.35 a.m.

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 Miss M I Montegriffo

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

SUSPENSION OF STANDING ORDERS

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of accounts on the Table.

Question put. Agreed to.

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table the Report and Audited Accounts of the Gibraltar Regulatory Authority for the year ended 31st March 2006.

Ordered to lie.

GOVERNMENT MOTION

HON CHIEF MINISTER:

Mr Speaker, I beg to move the motion standing in my name and which, as hon Members will now be aware, reads:

“Following the coming into operation of the New Constitution THIS HOUSE RESOLVES that the Standing Rules and Orders attached to the Resolution, and initialled on each page by the Speaker by way of identification thereof, be adopted as the Standing Rules and Orders of the Parliament in substitution of the Standing Rules and Orders made on the 10th December 1964.”

Hon Members will have received two texts, one is the text attached to the motion, which is the clean text of the new version, that is to say, the amended version of the Standing Orders and also a marked-up copy of the old one showing where the amendments have been made to the old text, so that we know exactly what amendments we are introducing. The House will have noticed that an index of Standing Rules and Orders has been added, which was not present under the old Rules, and that should assist the House and all Members of it in finding individual subject matter rules whenever they seek it. I think it is true to say that almost all, I say almost all because I think there is one that is not, almost all the amendments being proposed simply reflect the needs of the Standing Rules and Orders to reflect the changes introduced into our Constitution by

the Gibraltar Constitution Order 2006. So, that is true of all the changes of references from Assembly to Parliament, it is true of the new constitutional provisions as to who convenes the Parliament, that is in rule 1. There is a reference to, as indeed there was in the old Rules, in the heading of rule 4 refers to the Gibraltar Parliament and thereafter it refers only to Parliament. The provisions of rule 4(b) in relation to what happens in the absence of the Speaker, are also amended for like reason. The rule 5 relating to quorum is amended to reflect the new provisions of the Constitution, whereby the quorum of this House in preparation for meetings or sittings of this House, in preparation for any possible expansion of the size of the House in future, which of course has not yet taken place, but that the quorum is stated in terms of a percentage of the Members rather than a fixed figure that would have to be changed, depending on how many Elected Members in total the House comprised of. I think that on that page 5 all the other amendments relate to nomenclature. Turning to Part 2, all the changes in Part 2 relate to nomenclature, Parliament for Assembly, Act for Ordinance and things of that sort. In rule 12, relating to papers to be laid, there is this amendment by the introduction of the words "subject to sub-rule (3) below, all papers shall be presented to the Parliament by a Minister". Obviously we delete all ex-officio Members of the Assembly because there are not any and their presentation shall be entered upon the minutes. So the novelty there, the deletion of all ex-officio Members but also the addition of the prefix at the beginning, "subject to sub-regulation (3) below", and "sub-regulation (3) below" is to recognise the fact that some people whose papers previously had to be laid, can now lay it themselves because under the new Constitution they have been made officers of this House. So for example, the Principal Auditor and the Ombudsman are now, by the terms of this Constitution, officers of this House. They cannot come personally to lay the document but they can lay it through the Clerk. In other words, rather than the Principal Auditor sending the audited accounts of Gibraltar to the Government so that a Minister tables them, the Principal Auditor can send the reports directly to the Clerk, officer of the House to officer of the House, with the request that they be laid on the Table, and I would

envisage that the Clerk will include that in the [*Inaudible*] of the House to work out a mechanism for doing that, but I suppose they can just be recorded as laid on the Table through the office of the Clerk, pursuant to this rule. I mean the whole idea of making them officers of the House is that people who serve constitutional functions that are supposed to be independent of the Government, in the sense of almost being watchdogs of the Government, should not then have to channel their communications to Parliament through the Government themselves. Both the Public Services Ombudsman and the Principal Auditor exist primarily to assist in balancing the power between the State, so to speak, and the citizen, the Government and the citizen, and it is therefore appropriate that there should be a direct mechanism for them to lay documents in the House, and indeed to be accountable to the House directly. Obviously, wherever there is a reference in the rules, I will not mention it again when it happens, but whenever there is a reference in the rule to ex-officio Member, that will have been deleted for reasons that they do not exist any more. There was a reference to Council which I think might have been deleted previously regardless of any constitutional change in rule 16, sub-rule (4). If there is a reference to all replies given shall be recorded in the meetings of the Council, well that at least should have read Assembly. I think that is several Constitutions old, that reference probably. Going on through the rest of 16 and 17, there is no change there that falls out of the generality, except I would point out to the hon Members, in rule 17(1)(xi) the word "session" is deleted and replaced by the word "meeting". Hon Members may recall that in the Constitution the concept of sessions of this Parliament was done away with on the question that it was really an otiose reference anyway, our House was not organised in sessions as is the UK Parliament, we are organised into meetings and that now is reflected. In rule 18, the one that says that "no vote, resolution or motion, the effect of which in the opinion of the Speaker is to make provision for imposing or increasing any tax, rate or duty, or imposing or increasing any charge on revenue or other fund, or for altering any charge", in other words, the rule against anybody that used to require the Governor's recommendation before any finance bill, in effect,

could be brought to this House is replaced by reference to "Minister of Finance". In other words, that in keeping with the traditions in other Parliaments, only the Government can produce public finance legislation. But instead of that being required to be recommended by the Governor, it is now to be recommended by the Minister of Finance. Going through rules 19, 20 and 21, I think there is nothing worth specifically pointing out there. Rules 22, 23, which take us to Part 8 which is rule 25. Part 8 deals with Bills. Rule 25, again, makes the reference to Minister of Finance instead of Governor in respect to the remittal of debt, tax, rate of duty and any Bill that makes provision for that, and then adds this clause "and provided further that except with the consent of the Governor signified by the Chief Minister", normally it would have been done as per the Attorney General who is no longer in the House, "no Bill shall be introduced that", I think that comma there is probably unnecessary but positively wrong, "concerns a matter for which the Governor is responsible under section 47(1) of the Constitution". In other words, for the three things for which the Governor remains now constitutionally responsible. There is a proposed deletion in rule 27 which I do not think can be attributed to the Constitution. I think it is just the deletion of the words "unless the President should be pleased to direct otherwise". In other words, that Government Bills shall take precedence in the Order Paper over all other Bills. Then it says, "unless the President shall be pleased to be direct otherwise", I suppose that should read "to direct otherwise". I do not believe that that is justified by the Constitution and I think is just based on the view that Government Bills should always take precedence in any event. Other forms of Bills to be introduced by the Opposition Members require the approval of the House to be introduced anyway. So I do not think it deprives any Member of the House of the ability to bring legislation that they would otherwise be able to bring. As hon Members know they cannot bring Bills unless they have the leave of the House. I suppose having obtained leave of the House, an hon Member opposite, well opposite now or opposite during the next several decades or years that these Rules may persist, may wish to try and persuade the Speaker, having obtained the leave of the House to bring legislation, may wish to

try and persuade the Speaker to allow that Bill which he has been authorised to bring, to be given precedence over Government legislation. I suppose that theoretical possibility exists but the proposal here, which we can debate, is not in any sense a vital issue one way or the other, that where there is Government legislation it should be taken first, just as Government Motions are taken first before Opposition Motions. I think we should be careful about, certainly the way we have approached this as drafts people, of these changes is that we are not doing something for this Government or for this Opposition. These are Rules for the House for now and for the future, and I suppose one good way of testing them is casting our minds back, I do not think it would help to cast our minds forward, casting their minds back to when we were on that side and they were on this side, what attitude would they have to this if they were in Government and what attitude would we have to this if we were in Opposition. I think that is possibly the way to test that they are proper Rules for the House for the future. Rule 28, of course, is an important rule which I think is perhaps one of the most, aside from the elimination of the ex-officio members, which is democratically relevant in qualitative terms, I think the next rule relates and the change introduced to it reflecting such a change in the Constitution, is perhaps the most important amendment introduced into the manner in which this House carries out its legislative function. In other words, the replacement of the rule that the Government only had to give seven days notice of legislation before it could be passed in this House within 48 hours. Whereas before it was possible, with Opposition consent, for a Bill to be published and be law of the land within eight days, without Opposition consent nine days, all that is swept away in favour of the need for the Government to publish, the fact that the Government is unable to take a Bill in the House until it has been published for six weeks. That gives all Members of the House a better opportunity to become familiar with the draft legislation, and, as I commented before, has I think severe implications for the Government machinery, because it has been trained for so long on the ability to publish legislation, if needs be, on a last minute basis and now we have to really think forward much carefully because six weeks is quite

a long time compared to seven days. So we in Government, both at a political level and an administrative level, are going through the learning curve of getting into this new mode. Of course there is the exception in the Constitution whereby the Chief Minister can sign a certificate abridging the six weeks when he is willing to certify that the matter is too urgent to wait. But, certainly, I would not expect to do that unless there was some extraneous urgency, some urgency extraneous to simply the wish of the Government to do it at some particular time. I do not think the wish of the Government to do something today rather than tomorrow is itself the sort of urgency, that is anyway how I have interpreted it. It has got to be urgent for some reason other than the Government's political preference to do something now rather than in six weeks time. Of course, this six weeks rule, I am talking now to rule 29, this six weeks rule caused us to think a little bit about what was the interaction between the Government's publication of the Bill in the Gazette for the purposes of the six week rule, and the following rule which used to say that printed copies of all Bills will be sent by the Clerk to every Member. Of course, publication of the Bill is technically the publication in the Gazette, but as a separate exercise in respect of the workings of the House, the Clerk circulates Bills. At the moment it says seven days, theoretically, we could have left it at seven days there and we could leave it at seven days but I think that rather than say to the Clerk, you must do it five weeks or four weeks, I think it would just impose on the Clerk the duty to send printed copies of all Bills to every Member as soon as possible after publication, and in any event, not less than three weeks prior to First Reading. Well, hon Members are bound to have seen the Bills sooner than that by publication in the Gazette, but this is a matter, well in respect of any of this, where we can write whatever we like, but if the hon Members had a view on that so that perhaps the Clerk might have to do it within one week so that the circulation by the Clerk gave at least five weeks rather than the three weeks, and is reflected there, the Government would have no difficulty with that whatsoever and would be very happy there to write anything which did not operate as an administrative impossibility on the Clerk. Of course, if one puts seven weeks and this is on a Friday, then he

has got to do it before the weekend so it cannot be the six weeks. The point I am making is that the Clerk cannot have the obligation to personally circulate Bills the same period, namely, on the very day that they are published. So any reasonable period less than six weeks, but as long as possible, would be acceptable, I think, certainly to the Government. There is the reference to the abridgement under Standing Order 28. Then when we come to rule 32 to the Appropriation Bill, which had to be moved by the Financial Secretary, that of course is now moved by the Minister of Finance and all this sort of contrived business of immediately after the Financial Secretary speaking and saying as little as possible, the Chief Minister shall speak to the Bill, obviously that all goes out, as well it should have done long ago. Then, again, in the right of reply after all Members have spoken, the Minister of Finance shall have the right of reply. So I think all that in rule 32, simply reflects the fact that the Minister of Finance replaces the Financial and Development Secretary for all constitutional statutory purposes in terms of public finance. I do not think there is any amendment to rule 33, except the one reference to "Assembly" becomes "Parliament". Going through 34, 35, 36, 37, in rule 38 I suppose what is sauce for the goose should be sauce for the gander, so that Private Members Bills are also subject to the six weeks rule. Rule 38 deals with private Bills, Bills affecting persons. It presently says, "shall be published in two successive numbers of the Gazette before the First Reading" and I propose that we should add, "and that Bill shall not be read a first time until the expiration of six weeks after the date in which the Bill was first published". I do not think there is any justification for exempting any form of legislation from the need to give proper period of notice of it to the House. That takes us to Part 9 which relates to committees. There is nothing in rule 41 other than nomenclature changes, or in 42 or 43. In 44 I would just perhaps point out that in sub-rule (2), 44 relates to composition of how committees of this House, and sub-rule (1) obviously, apart from deleting the reference to "Attorney General" presently reads, "there shall be a Standing Rules Committee" of now Parliament, "which shall consist", and it presently says "two Members nominated by the Chief Minister, two Members nominated by the Leader of the Opposition and

the Attorney General ex-officio”, well, “and the Attorney General ex-officio” are deleted and, therefore, it has to be three members nominated by the Chief Minister and two nominated by the Leader of the Opposition, to ensure that the Government retain its majority in the Standing Rules Committee. The Chief Minister shall be the Chairman of the Committee and in his absence it used to say the Attorney General, I now propose that it should read “and in his absence another Minister designated by him shall act as Chairman”. So another Minister instead of the Attorney General to act as Chairman of the Standing Rules Committee. At the moment, the rule says “the Committee shall consider such matters as are referred to it by the President”, the Speaker. I am proposing that any of the Speaker, the Chief Minister or the Leader of the Opposition, should be at liberty to refer matters to the Rules Committee. So, for example, if the Government or the Opposition wish to propose amendments, changes to the Standing Orders, I think we should be free to propose those without having to obtain the Speaker’s consent. Of course, any rules proposed by the Rules Committee would then need to be approved by the House in full, so really all we are doing is extending the circle of people that can refer matters for consideration by the Committee. Indeed, I should say that perhaps this is an opportune moment to mention that I think, having limited the amendments at this stage to amendments required by the new Constitution, all those amendments that are compulsory, I do not mean to signal that these Standing Rules are not in need, in my opinion, of much more radical and deep rooted change, to be modernised and to make this House more parliamentary. The reason why we have not proposed that is that we have taken the view that within 12 months, well now much less than 12 months, of the dissolution of this House, I think it would be inappropriate to change its Rules, but I would hope that as soon as possible after the next Election, the Members of this House would then get together, in this very Committee, I hope, and thrash out a whole new set of Standing Rules and Orders that will better reflect the new status of this Parliament and the way in which it works, and its capacity to hold the Government to account on the one hand and to discharge its other business on the other. That said, if

Opposition Members have a different view and thought that it was okay to do this in what is left of this Parliament, the Government would have no difficulty whatsoever in initiating and at least starting the work during this Parliament in this Committee, if we wanted to start seeing how we might better organise the way that this Parliament works. I think probably all Members of the House agree, I hesitate to speak for others, but I doubt that any Member of this House thinks that these Standing Rules should remain as they are in their present form. So, I think I have got to rule 44, rule 45 has nothing other than nomenclature and consequential changes. The same is true of 46 and 47, 48, 49, 50, 51, 52 and I think through to the end now, 53. Mr Speaker, I think that hon Members will see as they go down their marked copy, that those are the last – obviously the commencement provision at the end has changed, it presently says “these Standing Orders shall come into force on 10th December”, obviously that simply reflects the fact that we are now changing those very Rules and I think the rest is just signing off in the traditional way. I commend the motion to the House.

Question proposed.

HON J J BOSSANO:

Well, obviously we are going to be supporting this on the basis that what we are doing is retaining the Standing Rules and Orders which have been around, in fact, not just since the 1969 Constitution but since the 1964 Constitution when this was the Legislative Council, and that what we are reflecting in the wording is the impact of the Constitution that came into effect this year. I think the first thing I would like to raise in terms of the Standing Rules, is the fact that rule 21(1) says “when a motion has been moved in the Assembly (now the Parliament), the Speaker shall propose a question in the same terms as the motion and debate may then take place upon that question”. Now, this motion that has been moved today was moved already once before when we met the last time. I see no

provision in the new or the existing Standing Rules for moving the same motion twice with nothing else happening. The last time the Hon Mr Holliday moved the motion and then moved immediately after another motion which was the adjournment to today. We suspended Standing Orders to enable that to happen. I would have thought that that did not require the motion being moved again and we would then have moved straight into the debate, which is what Standing Rules say. So it would appear to me that the starting point of today's contribution from the Chief Minister is in breach of rule 21, since he has now moved a motion even though we have not proceeded as required, because if it is mandatory, it says one must propose the question of the motion that has already been moved. That is how we should have started the day today with the Chief Minister being there, given that we stopped, as it were, in between the first line and the second line of rule 21(1) is where the adjournment took place the last time. So given that it says that when there is a need to interpret, Mr Speaker does the interpreting, I would like him to do the interpreting. The only other point that I think I wish to raise is that in the provisions in the new sub-section (3) of rule 12, for the Principal Auditor to present the report to Parliament, it says "may" and I believe it should say "shall", given that section 74(2) of the Constitution says "shall". So if it is mandatory by the Constitution I do not see how we can make it discretionary by the Rules of the House, although I do not pretend to have legal expertise, I do not know whether there is a conflict. But whether we had it in the rule or not it seems to me that there is no choice, given that the Constitution requires the Principal Auditor to present the report to the Parliament, although I do not think the Constitution actually says it has to be done through the Clerk. So it seems to me that doing it through the Clerk is what we are adding to the Constitution. Now, if the "may" were that the Principal Auditor may do it through the Clerk or he may do it in some other way then I do not see any conflict. But if what the "may" is saying, and I think that is what it means grammatically, that he may present the report to the Parliament or he may not, then I do not think the Principal Auditor has got a choice. Apart from those two points, we have no other issues to raise and as far as any

more drastic amendment, I think it ought to be left to future Members of the House to do what they think.

HON CHIEF MINISTER:

Does the hon Member want to propose, if he would give way before I reply, does he have a view on this business of whether the Clerk should circulate the Bills more than three weeks before?

HON J J BOSSANO:

I think the proposal that it should be within one week of publication is something that I think is preferable, because given that sometimes the delivery of the Gazette takes more than a week, then I think that if the debate is supposed to take six weeks after publication, then it seems to me not unreasonable that the Clerk should have a week to make sure that we have got a copy and that we are able to go through it five weeks before the First Reading. So I think it would be preferable that it should be five weeks instead of three in that area. Or that it should say a week after publication, within a week after publication.

HON CHIEF MINISTER:

Well, if I can just take the last point first, that then would require us not to amend the motion but to amend the draft rules attached to the motion. In rule 29 by the deletion of the word "three" in line 2, and its substitution, I think, the simplest way to do it is by the word "five". So that instead of the Clerk having to circulate it to every Member three weeks before the First Reading, it should be five. Of course, this raises a potential question of what the effect would be. I mean, it raises it in respect of three as well, I have to say that it is much less likely to be genuine in the case of three when a Member says, well I

have not received it. Now, are we saying that this adds to the Constitutional requirements, in other words, that even if the Government have published a Bill in the Gazette six weeks before taking it to the House, that one Member can pop up on the day and say, well I am sorry chaps we cannot take it today because I never got it from the Clerk five weeks before, I got it four and a half weeks before. Before it used to say, "seven days prior to the First Reading". I suppose the point would have arisen before, on reflection, there was a time limit it just used to be seven days and nobody made that point before. I do not know what the answer to that is, I do not know whether failure to comply with this makes the Bill untakeable but, anyway, whatever the answer to that is it has always been the case because there has always been a seven day period. As to the first point, rule 12(3), well perhaps we should just change the language. Perhaps it should simply read, "the Principal Auditor and the Ombudsman shall present their Annual Reports to the Parliament through the Clerk", so that it makes it clear that what we are purporting to regulate is the routeology and not the actual laying. The laying is, I cannot remember whether the Constitution, I will take the hon Member at his word, that they are [*Inaudible*]. I remember that the Constitution made them officers of the Parliament but I cannot remember whether it went on to say that.....

HON J J BOSSANO:

Section 74(2) of the Constitution makes it mandatory on the Principal Auditor but not on the Ombudsman. It says the Principal Auditor shall submit and lay his report before Parliament, so that is what the Constitution says. He has to do it and it seems to me that if we say the Principal Auditor may present to the Parliament the report, then we seem to be saying in our Rules that he has got a choice of doing it or not doing it, the Constitution says he has no choice.

HON CHIEF MINISTER:

No, it is not a matter of choice, that is clear, so we can only be providing in these Rules for the methodology of doing so. The methodology of it should not be up to him, it is up to us to say how this House wants to have papers laid before it by people who are not in it. Therefore, I think we should say.....

MR SPEAKER:

I think we really just need to move the words "through the Clerk". I think the way it is drafted "may, through the Clerk" falls incidentally. Put that at the end, "may present to the Clerk".

HON CHIEF MINISTER:

"Through the Clerk", making it clear that this is about the route and not about whether he needs to file it in the first place. So if it were to read, "the Principal Auditor and the Ombudsman may present their Annual Reports to the Parliament through the Clerk", I think it then reads as if it is intended to address the route rather than the action. So if I can propose that amendment too, has Mr Clerk taken a note of that? I think, the first point that the hon Member made does not require an answer. I think it boils down to the fact that I have unnecessarily read the crib twice, and that what he would have preferred me to do is to arrive at the House this morning and start blabbering about the substance without anybody listening knowing what it was that I was speaking to. I am not sure that repeating something that has got to be done once, repeating it a second time, is a breach of Standing Orders, but certainly, I agree with him that technically it was unnecessary for me to have done so. I am not sure that I would agree with him that it is a breach of Standing Orders, one has to move it once, he is right, the hon Member moved it once last time so I have come and I have moved it again. It is just repetition.

HON J J BOSSANO:

Who is the mover of the motion we have? The mover who moved it today or the mover who moved it the last time we met? Because the mover is the one that speaks and closes and mover number one has not moved so far in this meeting.

HON CHIEF MINISTER:

Yes, that is a better point, sorry, his previous articulation of the point did not convey that that was the point that he was making. He made it sound, when he first made the point, as if what he was complaining about was that it had been moved again. That is to say, that the motion having been moved orally by the Hon Mr Holliday, of course, it does stand in my name on the Order Paper. He moved it on my behalf.

HON J J HOLLIDAY:

Yes, for the sake of clarity I actually read, "the Hon the Chief Minister gave notice on 15th February that he proposed to move the following motion at this meeting of the Gibraltar Parliament, and I now read the motion on his behalf". Then I read the motion so I was actually reading on his behalf.

MR SPEAKER:

I think the point the Leader of the Opposition was making was probably directed at me because the way rule 21 reads, when a motion has been moved in the House, which was on 2nd March at the last sitting, the Speaker shall propose a question thereon to the House, but I did not propose a question there on the motion. What I did was propose a question on the adjournment so something else intervened. Is that the point the hon Member was making?

HON J J BOSSANO:

That is where we finished the last time and, therefore, it seems to me that we had stopped at the end of the first line and the first thing this morning was the Chief Minister proposing the motion. I am not sure there is anything in the Rules that says that somebody can move something for somebody else or not. I think the Rules are silent so presumably it is permissible but I do not think it has happened before.

MR SPEAKER:

My interpretation of the events is that the Hon J Holliday read the motion which was in the name of the Chief Minister at the last sitting, and at that point he moved that the House do adjourn and I put the question and the House adjourned. What has happened today, my interpretation, is that the Chief Minister is now speaking on his motion. So I think, subject to the very fine details, the procedure in spirit is correct.

HON CHIEF MINISTER:

In any event, I am sure it is not a point that the hon Member thinks needs to be fought to the death about it. So let us spare each other's lives on this question at least. Therefore, subject to those two amendments, which I think are consensual, I commend the motion to the House again.

MR SPEAKER:

May I just seek clarification on rule 29, what was agreed or consented to?

HON CHIEF MINISTER:

Five weeks instead of three.

MR SPEAKER:

Not less than five weeks.

Question put.

The motion, as amended, was passed unanimously.

HON CHIEF MINISTER:

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

“This House resolves in accordance with Section 52 of the Social Security (Insurance) Act that the Minister for Social Affairs proceeds with the making of the Social Security (Insurance) (Amendment of Contributions) Order, 2007.”

A copy of the proposed Order is attached. Mr Speaker, hon Members will see that the Order which the Minister can move, but only with the prior approval of a Resolution of this House, which is what this motion is for such a Resolution, is to implement changes to the Social Insurance contributions system that the Government has already announced, and of which the hon Members will, I am sure, already be aware. Basically, the new system eliminates the existing system of flat rate contributions and this business of a lower rate if one works less than 15 hours and a higher rate if one works more than 15 hours, and replaces it with a system whereby both the employer and the employee pays a percentage of their salary, but subject to a minimum and maximum cap. The maximum cap is set at a point which is what people are paying now for a weekly

contribution, so that this does not have the effect of raising the weekly Social Insurance contribution above the present stamp value, above the present contribution paid at the moment by employees or employers. There is a minimum cap, hon Members will be aware that in the future employees will pay 10 per cent of gross earnings subject to a maximum of the current maximum adult rate contribution of £20.75 and subject to a minimum of £5 a week. At the moment the minimum is £10.33 per week, so there is a reduction of the minimum so that this means that the lowest paid, the people who work part-time by the hour, will pay less because at the moment they have to pay a minimum of £10.30. With the proposed amendment they would pay a minimum of £5. The employer will pay at a rate of 20 per cent of gross earnings subject to a maximum of the current maximum adult rate contribution of £26.20 a week, and subject to a minimum of £15 a week. I should say also that self-employed contributions will be payable at 20 per cent of gross earnings subject to a maximum, the current maximum adult rate contribution of £23.98 a week and subject to a minimum of £10 per week. This goes hand in hand, as the hon Member knows, with the merger of the system for the collection of PAYE and Social Insurance contributions, which in future will be one exercise. It will all be the same cheque. In other words, the system for Social Insurance contributions payment is fully amalgamated with the PAYE system, because it relates to the same people in respect of the same activity, payable by the same people too. One important improvement is that at the moment, people who are part-time workers, in other words, people who work less than 15 hours a week, are actually not making a contribution to the Pension Fund and, therefore, are not under the Social Security pensions legislation contributing for an old age pension. That has been changed so that we are now transferring part of their contribution of part-time workers to the Pension Fund. So, therefore, under the terms of the Fund they will be earning an old age pension. One important qualitative and not immediately obvious advantage of the system, is that we have done away with the rule that if a person was already paying a Social Insurance contribution by one employer, and he got a second job with another employer, that

other employer was not obliged to pay Social Insurance contributions because the employee was already covered. This, it was discovered, was operating to the detriment of unemployed people because employers looking to employ part-time workers would always prefer to employ somebody who already had a job, because somebody who already had a job was already covered by Social Insurance contributions and would not cost the second employer any Social Insurance contribution. Of course, this is all very well but is just preferring people that already have a job at the expense of people who do not, because they were more expensive for that employer than offering the part-time job to somebody with a first job already. That has been swept away so that the second employer, but not the employee in respect of his second job, the second employer is obliged to make employers contributions too. So that the position is neutral as far as the employer is concerned and the employer gains nothing by preferring an employed over an unemployed person in his choice of employee. Needless to say, this system is also financially beneficial to many hundreds of part-time workers who work a few hours, and there are many, when one thinks of people who get hourly jobs at cashier tills at weekends in supermarkets or things of that sort, and other part-time workers who presently have to pay the reduced contribution, now will pay a sum which is 10 per cent of their gross earnings and which, except in some very exceptional circumstances which may theoretically exist but that in practice do not, all these people will end up paying less, the employee will end up paying less Social Insurance contribution than they pay at the moment. One of the constant complaints of part-time workers is that a disproportionate part of their salary goes on Social Insurance contribution under the current regime and that is eliminated too. Hon Members will also note that the last part of the proposed Order that the House is approving now by this Resolution, converts the various Funds to which the sum making up the contribution is paid, converts it into a percentage of the sums in question so if the hon Member looks at page 3 of the proposed Order, at the moment those are in figures. So it is so many pounds and pence to this Fund, so many pounds and pence to that Fund – it is now stated as a percentage. If hon

Members work out the percentage, the money, there is actually a very small rounding off but there is not there any substantive alteration in the present allocation of the funds. I commend the motion for the Resolution to the House.

Question proposed.

HON C A BRUZON:

Mr Speaker, it goes without saying that we respect the Government's right to introduce these changes, but having studied the matter we are not committed to neither do we agree with the proposed amendment to Schedule 1, which the motion by implication approves. Let me just say that we have our own ideas of course, as to how the whole system should work and what changes we would introduce. We do acknowledge the need for and have previously committed ourselves to a method of allowing Social Insurance contributions to be lower, for example, for part-time workers. This has been in the context of fixed contributions as has been the case until now. Our position is, in that context, that fixed Social Insurance contributions can be made to reflect the number of hours a person works, in order to provide for part-time employment. In other words, a pro-rata system. But the point is that we have ideas on the whole, all the issues concerning the contributions and we would reserve these views for the moment and respectfully vote against the motion.

HON CHIEF MINISTER:

Well, the hon Members may have their own views, which of course they chose not to put into practice when they had the opportunity to do so, and I do not know how much thought they have given to the statement reflected to the issues that arise from the statement that the hon Member has just made. When they give careful and detailed thought to it they will appreciate that what the hon Member said does not work. It does not work because one cannot then collect Social Insurance contributions

through the PAYE system. The PAYE system is not based on hours, it is based on earnings regardless of the number of hours which one takes to earn it. Secondly, a system which is pro-rata on hours worked always lends itself to manipulation and abuse by employers, because one cannot control the hours or one cannot police the hours that an employee works. So if one is going to collect Social Insurance contributions at reduced, to boot, levels from employers who can in effect choose what number of hours they tell that a person has worked, then I regret to tell the hon Member that what we will actually be presiding is over a Social Insurance Fund which will be even more under funded than it is at the moment. So, certainly as he respects our view, our right to have our view, I certainly respect his right to have a different view and to reflect that difference by choosing not to support a Resolution that reflects our view, different to his. So therefore, that is the right amount of respect that we should have for each other's views and nevertheless the Government obviously will proceed without the hon Members support.

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 B A Linares
 The Hon J J Netto
 The Hon F Vinet

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 motion was accordingly passed.

HON CHIEF MINISTER:

I have the honour to move the motion standing in my name which is of the same order, of the same sort as the one we have just mentioned but it relates to the Pension Fund. It reads:

“This House resolves in accordance with Section 46 of the Social Security (Open Long-Term Benefits Scheme) Act 1997 that the Minister for Social Affairs proceeds with the making of the Social Security (Open Long-Term Benefits Scheme) (Contributions) (Amendment) Order, 2007.”

This simply says that for the purposes of that pensions legislation the contributions shall be what is said in the Order that we have just debated. So given that that has already happened, I propose, with the leave of the House, not to go through the arguments again, it is just another piece of architecture needed to implement the views that we have exchanged already before. I commend the motion to the House.

Question proposed.

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 B A Linares
 The Hon J J Netto
 The Hon F Vinet

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 motion was accordingly passed.

BILLS

FIRST AND SECOND READINGS

HON CHIEF MINISTER:

Mr Speaker, could I just by way of information to the House advise the House that the Government will not be proceeding at this stage, either with the Bill for the Energy Charter Treaty of 2007 or the Bill for the Geneva Conventions Act 2007. We will be coming back to these Bills later on but we are not proceeding with them for technical reasons at this stage.

THE CIVIL CONTINGENCIES ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to make provision for the exercise of certain powers in the event of, in the context of, and in relation to civil contingencies, 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 is designed to fill a lacunae that we believe presently exists in Gibraltar's legislative framework, in comparison with the legislative frameworks of all Governments in the democratic world, where the Government of Gibraltar lacks the necessary statutory framework for dealing with civil contingencies. This Bill is in large measure inspired by equivalent statutory provision in the United Kingdom. Clearly, one hopes that the sort of circumstances which this Bill relates to and upon which circumstances it may need to be invoked, will not occur, but in an increasing, fast changing and dangerous world, the risks of events which represent a serious threat to the public health and safety interests of the community at large are increased. I think it is an area where, if anything, Gibraltar has been slow to arm its Government with the sort of legislation that democratic governments around the world have in order to either pre-empt or, if they occur, remedy and deal with the aftermath of serious threats to public safety and to the community. Part 1 of the Bill, which is clauses 1 and 2, deals with general matters, the usual things, definitions. Part 2 of the Bill makes provisions and creates powers for what are called pre-emptive measures. Pre-emptive measures are things designed to prevent events from occurring. So clause 3 provides that the Government may make regulations where it believes that there exists in Gibraltar or elsewhere in the world, an event or a situation that "threatens damage to human welfare in Gibraltar". The purpose of such regulations will be to prevent, mitigate or control the effect of that situation or event. Sub-clause (2), sets out the ingredients that must be satisfied before an event or situation can be said to threaten human welfare. In other words, the Government cannot just invoke these regulations in any old circumstance. There has got to be an event or a circumstance that falls within what the statute calls a threat of damage to human welfare in Gibraltar, and then it goes

on to define what are sufficient threats or damage to human welfare. It says, "an event or situation threatens damage to human welfare only if on a scale which is greater than the normal risk or incidence thereof", in other words, it is no good the Government saying there could be a hurricane, there could be a storm, there could be this, there could be that, because those are things of which there is a normal risk or incidence thereof. It has got to be where the event or situation threatens damage to human welfare on a scale which is greater than the normal risk or incidence thereof. It involves, causes or may cause (a) loss of human life; (b) human illness or injury; so human illness or injury is the epidemic and the bird flu and that sort of thing; homelessness; damage to property; disruption of a supply of money, food, water, energy or fuel; disruption of a system of communication; disruption of facilities to transport, or disruption of services relating to health. The event or situation mentioned in sub-clause (1) may occur or be inside or outside Gibraltar, and then there is a statement of the nature of the penalties, the extent of the fine and sanctions that such regulations can impose. Then, clause 4 says what it is that the Minister can do, the Government can do in such a situation. Where a need for coordination at a high level is required, through clause 4 the Minister with responsibility for civil contingencies may order a person or body listed in the Schedule to carry out certain duties. So this is the main scheme. In the circumstances that I have described before, what is it that the regulations can require the Minister to do by regulations to assist in trying to pre-empt the event which is so damaging and threatening to human welfare in Gibraltar. Well what he can do is that he can require the organisations listed in the Schedule to do or omit to do certain things. Hon Members can see, well we will have a quick look at what the organisations are. Any airline operating an air service to Gibraltar; any dispensing chemist or pharmacy; any Government Department, Statutory Authority or Agency; and any public officer or any employee or officer of any such Statutory Authority or Agency; any operator of a route bus services, so one could envisage the situation where the regulation might impound transport infrastructure, buses and things, for the purposes of transporting people. Any person,

entity who provides public electronic communications, in other words, telephone network operators, schools, shipping companies, taxis, water companies, the Fire Brigade, the Customs Department, the Broadcasting Corporation and then a series of Government-owned companies, Land Property Services, Community Projects Limited, The Post Office, Security and Immigration, the Ambulance Service, Terminal Management Limited, Health Authorities, the Bus Companies, the Electricity, that sort of thing. Now, the Minister may by Order require a person, such people, the people listed in the Schedule that I have just referred to, to perform a function of that person or body for the purpose of preventing the occurrence of an emergency, reducing, controlling or mitigating the effect of an emergency, or taking other action in connection with an emergency. There is an obligation on such people to comply with such regulations. An Order issued under such regulations may require a person or body to consult a specified person or body, or class of person or body, permit, require or prohibit collaboration to such extent and in such manner as may be specified. Permit, require or prohibit delegation to such extent and in such manner as may be specified. Permit or require a person or body listed in the Schedule to cooperate. Permit or require a person or body listed to provide information in connection with a duty under the Order, and so on and so forth. Under clause 5, where there is an urgent need to act, in other words, such a threat is so imminent that there is no time to make regulations in the normal way, there is a power in the cases of urgency, enabling the Chief Minister to issue written directions instead of the regulations. Now the clause says that this clause applies where (a) there is an urgent need to make provision of a kind that could be made by an Order under regulations made under clause 4(1), but there is insufficient time for the Order to be made. The Chief Minister may then, by direction, make provision of a kind that could have been made by an Order under clause 4. Where the Chief Minister gives a direction under sub-clause (2), in other words, where the Chief Minister invokes the more urgent mechanism, he may revoke or vary the direction by further Order, he shall revoke the direction as soon as is reasonably practicable and he may, if or in so far as he

thinks it desirable, re-enact the substance of the direction by way of an Order under clause 4, and the direction shall have a maximum life of 21 days beginning with the day on which it was given, but of course, that is without prejudice to the power to issue a new one. Clause 6 makes provision for scheduled organisations, organisations listed in the Schedule, to provide information to the Government. Clause 7 makes enforcement provisions. Part 3 of the Bill deals with emergencies. In other words, whereas in Part 2 we were dealing with pre-emptive measures, Part 3 deals with actual emergency. Emergency is defined in clause 10 as (a) an event or situation which threatens serious damage to human welfare in Gibraltar; or an event or situation which threatens serious damage to the environment of Gibraltar. For the purposes of sub-clause (1)(a), an event or situation threatens damage to human welfare only if on a scale which is greater than the normal risk or incidence thereof, it involves, causes or may cause and then it is the same list as before – loss of human life, human illnesses or injury, homelessness, damage to property, disruption of the supply of money, food, water, energy or fuel, disruption of the system of communication, disruption of facility to transport or disruption of services relating to health. For the purposes of sub-clause (1)(b), the one about the environment, damage to the environment, an eventual situation threatens damage to the environment only if it involves, causes or may cause (a) contamination of land, water or air with biological, chemical or radioactive matter; or disruption or destruction of plant life or animal life. The event or situation may be one that occurs in Gibraltar or elsewhere. Under sub-clause (4), the Chief Minister may by Order amend sub-clause (2) so as to provide that insofar as an event or situation involves or causes disruption of a specified supply, system, facility or service, it is or is no longer to be treated as threatening damage to human welfare. So, clause 11 permits the Minister with responsibility for civil contingency, to make emergency regulations, but however, before doing so the Minister must satisfy himself that the conditions set out in clause 12 are met. The conditions are these. First is that an emergency has occurred, is occurring or is about to occur. So one can see that this is no longer now in the realms of prudent

pre-emption measures, this whole part is when we are in an emergency situation itself. In other words, the emergency must either have occurred, must either be in the process of occurring or must be about to occur. The second condition is that it is necessary to make provision for the purposes of preventing, controlling or mitigating an aspect or effect of the emergency. Thirdly, is that there must be a need for provision to prevent, control or mitigate the effect of an event and that that should be urgent. Fourthly, where legislation already exists, he has to be satisfied that further legislation would be necessary. In particular, that the existing legislation cannot be relied upon without the risk of serious delay, that it is not possible without the risk of serious delay to ascertain whether the existing legislation can be relied upon or not. Or the existing legislation might be insufficiently effective, or the provision cannot be made under the existing legislation without the risk of serious delay. Or that it is not possible without the risk of serious delay to ascertain whether the provision can be made under the existing legislation or the provision might be insufficiently effective if made under the existing legislation. Clause 13 sets out the scope for the making of emergency regulations. Such regulations would be appropriate if made for the purposes of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made. In particular, if made for protecting all the things that were listed before, human life, health and safety, human illness or injury, protecting or restoring property, protecting or restoring a supply of money, food, water, energy or fuel, protecting or restoring a system of communication et cetera. Sub-clause (3) provides that emergency regulations may make provision (a) that there is a long list of things that emergency regulations may make provision for, they are listed there. For example, to confer a function on a Minister or on any other specified person and a function conferred may in particular be a power or duty to exercise the discretion, or a power to give directions or orders, whether written or oral. Provide for, subject to the Constitution, or enable the requisition or confiscation of property, provide for, subject to the Constitution, or enable the destruction of property, animal, life or plant life; prohibit or enable the prohibition of

movement to or from a specified place. In other words, the usual quarantine type provisions. Require or enable the requirement of movement to or from a specified place, prohibit or enable the prohibition of assemblies of specified kinds, at specified places or at specified times, prohibit or enable the prohibition of travel at specified time, et cetera. The list is quite long. The limitations on the powers are that there is a limitation that any regulations made under these clauses, have to be appropriate and proportionate. The measure must be appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made and that the effect of the provision is in due proportion to that aspect or effect of the emergency. Further limitation on the use of such powers are contained in sub-clause (2) of clause 14, which provides that emergency regulations may not (a) create an offence, other than one of the kind described in clause 13(3)(i); may not create an offence other than one which is triable only before a Magistrates' Court; may not create an offence which is punishable (1) with imprisonment for a period exceeding three months; or with a fine exceeding level 5 on the standard scale, and may not alter a procedure in relation to criminal proceedings. Clause 15 provides that emergency regulations made under these provisions will lapse after 30 days, unless a shorter period is specified. Clause 16 allows for written directions to be given where emergency regulations cannot be made in sufficient time and that is a regime equivalent to the one that I described before under Part 2 relating to preventive measures. Part 4 gives a statutory framework to the establishment role and functions of the Civil Contingency Committee, known as C3, which in fact the Government established some years ago, three years ago, and has in fact existed as an informal Government Committee. In future, it will be a formal, statutory committee and the Civil Contingency Coordinator is appointed under the provisions of clause 17 and clause 18 sets out what the functions of the Civil Contingency Committee are, which are (a) to advise the Government on any matter relating to civil contingencies and emergencies of all kinds; to draw up plans, to pre-empt such contingencies and to deal with their consequences if they should

occur; to coordinate the roles and activities of Government Departments, Agencies, Authorities, companies and other authorities and persons in response to civil contingencies; to organise and conduct exercises for the rehearsal and testing of civil contingency plans, and such other roles and functions as the Minister may designate in writing. Clause 19 relates to the appointment of the Civil Contingency Coordinator, and clause 20 is a general regulatory making power. Mr Speaker, clearly these provisions do not disable or disentitle, or otherwise adversely affect any powers held by any other entity under any other superior law. For example, the Constitution refers to the Emergency Powers Order and that remains unaffected by this, but that is a very antiquated piece of legislation, insufficient to protect Gibraltar from civil contingencies in the very same way that all modern European democratic societies have identified a need to protect themselves from. I commend the Bill to the House.

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

HON J J BOSSANO:

I do not know to what extent this is the same as all other European democratic societies, or falls short or goes beyond it. We have not carried out a comparative exercise to do that, but the powers are very wide. I think the first question that arises, which I think presumably has been addressed by the last remark of the mover, is that of course, if we are talking about any civil contingency that affects the national security of Gibraltar, that that responsibility continues to rest with the United Kingdom under the Constitution. Presumably they have got better resources to deal with situations than we have. The purpose of this is to provide for powers that need to be triggered off when there is a civil contingency, but what is a civil contingency is not defined. Now I think that if one is talking about a situation of a hurricane or a terrorist attack, then we understand that these are things for which the Government require to have the ability to

mobilise resources to protect the community. In the absence of a clear cut distinction as to what is and what is not a civil contingency that can produce the use of these powers, then it seems to me that if one is talking about an event that involves or causes, or may cause disruption of supply of money, food, water, energy, fuel or transport, I mean, I can think of lots of things that are not civil contingencies that would disrupt those supplies totally. I am not sure whether the law makes clear that that is not what these powers are for and this is not the purpose of this law and that it cannot, in fact, be used in a situation where, for example, we have got in the case of Gibraltar there has always been the fact that our size means that a small group of workers can be in dispute with their employer and effectively disrupt the supply of whatever commodity they are in. If the Gibraltar Bus Company goes on strike tomorrow then there is a disruption of the facilities for transport, because there is only one. If the Generating Station in the Electricity Authority has got a dispute, then it disrupts the supply of energy. I would not consider that to be a situation which the Civil Contingency Act is triggered and the Government are, therefore, entitled to take pre-emptive or any other action, including for example, doing things like saying where people can meet and where people cannot meet, and at what time they can meet and at what time they cannot meet. Therefore, what we would like to see is something included that makes clear that the law would be used for what it says in the opening paragraph it is intended, which is to exercise powers in relation to civil contingencies and not disruptions produced by disputes, in particular areas which in Gibraltar's case, but not perhaps in most other cases, would have a national effect because we only have one of each. So, apart from those two areas which we do not think is self-evident from reading the text, we support the Bill.

HON F R PICARDO:

Just a point in relation to the Schedule. Most of the parties mentioned in the Schedule are parties either controlled by or involving an element of control by the Government, either

directly as an authority or as a shareholder. A number of them are not, for example, airlines, dispensing chemists, route bus operators or operators of tour buses, there is of course one route bus operator that is not the Gibraltar Bus Company, the persons providing the telecommunications, shipping companies and taxi licensees. I would just like to know whether the Government have consulted or are in the process of consulting with these parties about what they may be required to do in the event that certain emergencies do occur. Of course, it is probably impossible to understand all the emergencies that could occur, but certain emergencies, so that these people are not notified simply when something is happening that there is this power and that they may be required to do things.

HON C A BRUZON:

I am not sure whether this would be better mentioned at Committee Stage but I mention it now in the hope that it is a valid point. As a layman in legal matters, I would just like to ask the Chief Minister to look at Part 1 and the interpretation clause where we have no definition of who the public officers are. There may be definitions of public officers or maybe it is something that we should all know, but would it be a good idea to define public officers? We talk about Ministers, public functions, functions of Ministers, functions of public officers and I notice that the Royal Gibraltar Police is only mentioned at the very end of the Schedule and I am obviously sure that they will play a very important part in any emergency. Anyway, I just thought I would mention that point.

HON CHIEF MINISTER:

I have to say that I am somewhat surprised by the contribution of the Leader of the Opposition to suggest that this legislation may be capable of being used to defeat, or in the context of an industrial relations dispute, as I think is far fetched. For a start, the Bill does not amend the Trade Unions Act and there is no

amendment to that. The remainder of the hon Member's contribution suggests that either he has not read the Bill in detail and he has not listened to what I have been saying. Perhaps I did not read it out in enough detail. To suggest that the Bill does not define what is a civil contingency is simply not correct. Clause 3(1) says, "where the Government believes that an event or situation threatens damage to human welfare in Gibraltar." So, it may make regulations to prevent, mitigate or control the effects of that event or situation. So first of all, what is a civil contingency? Well first of all there has to be an event or situation which threatens damage to human welfare in Gibraltar. Of course, it cannot be just any event which threatens damage to human welfare in Gibraltar, so sub-clause (2) goes on to say, "an event or situation threatens damage to human welfare only if on a scale which is greater than the normal risk or incidence thereof, it involves or may cause".... So first of all there has to be an event or situation that threatens damage to human welfare in Gibraltar, then it has to threaten damage to human welfare on a scale which is greater than the normal risk or incidence thereof. Then it must involve, or cause, or may cause all those things that are listed there, loss of human life, certainly on the list is a disruption of the supply of money, food, water or electricity, but the power would certainly not be available, for example, in the context of a water strike, or a strike by water workers, or a strike by electricity workers, because that is not a threat of damage to human welfare on a scale which is greater than the normal risk or incidence thereof. It is not a civil contingency, and this is not home-made language. I started by saying that this was inspired, it is a very carefully chosen set of words in a definition to make sure, what one cannot do in any sensible legislation of this sort is identify every contingency that might arise. Nor can one have legislation that is so wide that it is capable of being abused, in a sense, and being deployed for purposes other than those for which they were intended. This is a very carefully structured formula to make sure that there has to be an increment of circumstances, none of which by themselves are enough, that there has got to be an incremental set of circumstances, all of which are required in order for the powers and the legislation to be invoked. It would be very

difficult, not to say impossible, to find words which had the sort of precipice effect that the hon Member was suggesting. I am not sure that any particular issue arises because we are smaller. In the UK there are national electricity grids and there have been national strikes of this and of that and this legislation, which has existed in the UK in a different form for some time, has never been used or more importantly, has never been thought to be available for use in such circumstances. What I am saying to the hon Member now in terms of the circumstances is true both of the pre-emptive measures and of the measures that happen in the context of an emergency. So, in the context of an emergency there actually has to be an emergency afoot and then it is self-evident whether it is. If the hon Member turns to Part 3 of the Bill, the event needs to have happened, needs to be in the process of happening or needs to be about to happen. So I honestly do not believe that the concern that the hon Member has, which if it were real I think would be a legitimate concern. I think the Government would not wish to be moving legislation that could be used to defeat, for example, the right of workers to take industrial action but it is, in my view, not open to that use and not open to the interpretation that it might be open to that use. So just to use the example that the hon Member used in his address, it would not be enough that there is a disruption of the power supply, it would not be enough that there is a disruption of transport because there is an industrial dispute, because there has also got to be these other things. It has got to be threatening to human welfare, it has got to be on a scale greater than the normal risk or incidence thereof, and therefore, it is not usable for the purposes of defeating industrial action. No industrial action can be said to be in excess of the normal risk of incidence of industrial action. Industrial action is industrial action. So I hope that the hon Members will understand that there is no either intention nor effect, and if there were I would be as keen as he is to have prevented it from happening. In response to the point raised by the Hon Mr Picardo, the reason why most of the scheduled organisations are public sector organisations, is that that is where the sort of activities and resources are to respond to civil contingencies. Except telecommunications infrastructure which is now in the

private sector, water infrastructure which is now in the private sector and the reason why it refers to the Gibraltar Bus Company, route buses, airlines and taxis is because they are the operators of the transport infrastructure. One way of doing this, instead of naming specific organisations, would simply be to have said the operator of any means of transport and the reason why emergency planners and those responsible for dealing with emergencies, have to have the ability in the case of emergency to impact on the transport infrastructure is for several reasons. At its simplest, one may wish to commandeer taxis, to commandeer buses in order to evacuate people in quantity. So, the Government have to have statutory powers to say to taxi drivers and bus owners, we are taking over your vehicles and we are taking over your buses in order to transport people en masse out of Gibraltar because there is a tidal wave on the way or something of that sort. Another circumstance in the context of an emergency the transport infrastructure is important, in the case of airlines, is for example, in the context of biological threats to the health, we may wish to direct airlines to suspend flights, this is why airlines are there. Well look, if there is an outbreak of some deadly illness in some fictitious country, we will not want flights to Gibraltar from that fictitious country. Therefore, in those circumstances there has to be a power, this is why airline operators are on the list, there has to be a power. The Government cannot just pick up the phone and say to British Airways, do not fly here tomorrow. There has got to be a lawful basis for the Government to do things like this. Between ourselves we may be wanting to recognise authority which is not based on statute..... yes I will give way to the hon Member.

HON F R PICARDO:

The Chief Minister has given me an explanation of why they are on the Schedule which is not what I asked him for. I only asked him whether he had gone down the road of actually informing these agencies, or these parties which were not as connected to the Government as all the others, that this power was now to be in our Statute Book, so that they were aware that they might

receive such directions from the Government and did not simply receive them in the difficult moment that we might be in if we were in the process of an emergency or civil contingency. That is the only issue. I fully appreciate what the Chief Minister is saying and he need not recite it.

HON CHIEF MINISTER:

I was coming to that, the Government have not done it yet. What the Government do not do is consult with people as to whether they think something is necessary in order to protect public safety. But that is the only thing that could have happened so far. Now, if this becomes law, there will be booklets produced and the information produced explaining the import of this, so that people who might be affected by it will be aware, there will be an information process as a pre-legislative consultation process, which is the only thing that could have happened. The hon Member asked whether it had happened already. The only thing that could have happened already is the consultation in the context of legislative consultation. Once it becomes law, there will be a process by the Civil Contingencies Coordinator to say to all these people, you will wish to be familiar with all these provisions and, therefore, please become familiar with them because in the circumstances described you may be exposed to the impact of this. Certainly, it is absolutely desirable that that should happen. As for the point raised by the Hon Mr Bruzon, I am almost certain it is true that the term "public officer" is defined in the Interpretation and General Clauses Act, because the hon Member will know that the term "public officer" is used throughout legislation in Gibraltar generally and is never specifically defined. For that reason it is defined in the Interpretation and General Clauses Act. I am almost certain. If it is not, it is because it is thought to have its ordinary meaning, a public officer is an officer employed by the Crown, by the public. Having said that, I think it is the first and not the second. Yes, I will give way to him.

HON C A BRUZON:

Another point that occurs to me, of course, is that in an emergency there should be a way of clearly identifying people who have responsibility.

HON CHIEF MINISTER:

The hon Member is absolutely right, this is the legislative framework for emergencies, it is not the Government's civil contingency plans. The Government already have, and have since we established the Civil Contingency Committee several years ago, the Government have been developing civil contingency emergency or disaster, response plans to all the various envisageable emergencies – accidents, air crash, oil spill by an oil tanker, petrol tanker, in the middle of town, bowser, rock fall, collapse of building, large scale fire. There are emergency response people, each of those plans has a control and command structure, which in the usual terminology relating to this industry is broken down into gold, silver and bronze command levels, and who is bronze, silver command depends very much on the nature of the contingency and on the nature of the event and who is the lead organisation in responding to it. For example, if there is a medical event, logically it will be the Gibraltar Health Authority that will lead on the medical aspects, and others will lead on the physical quarantining aspects should it ever become necessary. So the hon Member must not think that this is Gibraltar's civil contingency regime, it is really in a sense the tip of the iceberg, it is what gives legal basis for people that have to do all the things that are contained in the actual emergency response plans themselves. Whilst I have been answering the second point, I have been put into a position to confirm that, indeed, the term "public officer" is a defined term under the Interpretation and General Clauses Act, which means that there is a statutory definition for wherever that appears in any Act, in any legislation of Gibraltar.

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 EXCHANGE CONTROL (REPEAL) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to repeal the Exchange Control Act, 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 just a little bit of statutory housekeeping. When we were trawling the legislation of Gibraltar in order to reflect the new Constitution, by removing references to Financial and Development Secretary and things of that sort, we came across the fact that the Exchange Control Act still remains from the old days of exchange control, and that the Exchange Control Rules are actually suspended and have been only suspended all of these years. So the regime exists, it is in place, but stands suspended, which of course, is now hugely inconsistent with the EU. For example, freedom of movement of capital, which is entirely incompatible with the Act,

so this Bill simply finishes the job and simply repeals the Act altogether. 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.

Question put. Agreed to.

**THE MUTUAL LEGAL ASSISTANCE (INTERNATIONAL)
(AMENDMENT) ACT 2007**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Mutual Legal Assistance (International) Act 2005, 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, again, a minor piece of tidying up. The Mutual Legal Assistance (International) Act in clause 2 empowers the Chief Minister, defines Minister as meaning the Chief Minister. Since we did this we now have a Constitution which enables and, indeed, a Minister of Justice has been created. Well at the moment that portfolio is held by somebody who happens also to be the Chief Minister but that may not be the case in the future. Therefore, it is appropriate that this, which is clearly the area of justice, it should not be the responsibility of the Chief Minister but simply a responsibility of whoever is the Minister responsible for justice. Therefore, the amendment is as simple as that, that instead of defining Minister in the Act as being the Chief Minister, that instead it should be, Minister means the Minister responsible for justice. One of those functions which logically falls within the Ministry of Justice.

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 (EUROPEAN UNION) (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Mutual Legal Assistance (European Union) Act 2005, 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 exactly the same as the previous one. Hon Members will recall from when we passed this legislation, that there is one Act dealing with mutual legal assistance for European Union Member States and a separate Act, following it and based very closely on it, but nevertheless a separate piece of legislation in respect of mutual legal assistance internationally, which is countries who are not members of the EU. Again, that has got the same definition of Minister as meaning the Chief Minister and this, therefore, just amends it in the same way to Minister responsible for justice. 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 FINANCIAL SERVICES COMMISSION ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to establish the Financial Services Commission and to repeal the Financial Services Commission Act 1989, 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 hope that this Bill will enjoy the support of both sides in this House. It is a Bill which, in a sense, repatriates to Gibraltar the ownership, if I can call it that in very loose terms, of the regulatory aspects of our financial services industry. It does so in a way which preserves in localising the ownership of financial services industry. I hasten to add that it does so in a way that does not undermine the principle of independence of the Financial Services Commission and, therefore, of financial services regulation from the Government. The Government is a keen supporter of the concept of independence of regulation in the area of financial services. Therefore, in no sense is this Bill, either by intention or by effect, does it have the effect of undermining or tampering with the

independence of the regulatory and licensing aspects of the Financial Services Commission to the extent that they are genuinely issues of regulation and regulatory and regulation-based licensing consideration. There are many amendments, it is a very technical area, I will therefore just speak to what are some of the main sort of emblematic changes. Let me say that this Bill has been consulted on in detail with the Financial Services Commission and, indeed, I think that the Financial Services Commissioner has recently spoken in approving terms of this Bill. Indeed, I think that is so. This is a piece of legislation which clearly signals, without suggesting that it was ever different in 1989, that certainly Gibraltar is not in need of being chaperoned from outside in respect of its ownership, its localisation, if I could put it that way, of its ownership of the financial services regulatory machinery. So in terms of the main changes, hon Members will see that there is now the introduction of a definition of "financial crime". A financial crime includes an offence involving (a) money laundering; (b) the financing of terrorism; (c) fraud or dishonesty; (d) misconduct in or misuse of information relating to a financial market, or handling the proceeds of crime arising through the conduct of authorised or unauthorised financial services business. That is actually an amendment which I will be moving to delete the words "arising through the conduct of authorised or unauthorised financial services business", because in fact, it is a duplication of the provisions of the Schedule which already say that last bit. I will come to that when I move the amendment. If I could take the hon Members to the substantial parts, clause 2(2) of the Bill introduces a section that says, "for the purposes of this Ordinance, standard and supervisory practices match those governing the provision of financial services in the United Kingdom if they mitigate regulatory risk to the same extent as they are mitigated in the United Kingdom, taking into account the respective nature and sizes of Gibraltar and the United Kingdom financial services business". The hon Members will be aware that we obtained financial services passporting rights on the basis that our regulatory standards would match the United Kingdom's. Of course, since then there has been plenty of disagreement about what those words mean in practice,

matching standards. Does one have to match the inputs or is it enough that the outputs are matched? In other words, does one have to do things in the same way as the United Kingdom does it, or so long as the result is the same can one do the thing differently. In other words, does one have to match the inputs or is it enough that one just matches the outputs. Of course there is a huge difference because in a small market operating different areas of financial services, we can achieve the same results without doing it the same way and doing it the way which much better suits Gibraltar. For example, the UK is large, they do not have the resources or the ability to visit companies as frequently as the Financial Services Commission are able to visit companies. So, if the UK system has a high level of safety margin built into it, to accommodate the fact that people are not going to be visited very often. If our regulatory regime is different, if our regulatory regime is more based on visits, then the things that the United Kingdom has done which are often costly, onerous and unhelpful to the Finance Centre's development, but which the United Kingdom only did because they cannot be bothered or because they are too big to visit companies more frequently, there is no reason why we should be saddled with those when we do not share the need for it. That is the sort of issues that have arisen over the years as to what matching UK standards means. This clause makes it very clear that UK standards are matched if our supervisory practices "mitigate regulatory risk to the same extent as they are mitigated in the United Kingdom". In other words, that we have to match the outputs not the inputs. An important change in the legislation. Clause 3 then introduces a new regime of the Financial Services Commission, the appointment and the constitution. There is a Chief Executive of the Commission as opposed to a Commissioner and this is something that the Commission have asked for. The concept of the Commission being the body with the power as opposed to the situation at the moment, where most of the power belongs to the Commissioner himself under the Act. The idea is that a body corporate is created, the Commission, it is the Commission that has the power exercised on its behalf by a person who is its Chief Executive. So the Financial Services Commissioner becomes the Chief Executive

of the Financial Services Commission. Hon Members I think will be, hopefully, particularly pleased to see that the amendment in clause 3(1)(b), whereas before the seven other members of the Commission were appointed by the Governor, acting with the approval of the Foreign and Commonwealth Secretary, all that is now gone and the seven persons are appointed by the Minister, who is the Minister for Finance in accordance with sub-clause (4), and at least two of these persons shall have significant experience of regulation and supervision of finance services business in another jurisdiction. This is an important issue for confidence in our Finance Centre. There should be some external experience brought to bear, particularly when we start regulating activities in Gibraltar for the first time, we break into a new industry, we have got to signal international confidence by saying, look, there are some regulators who are familiar with those things. But the important point is that there is no longer appointments by the Governor or by the Foreign Secretary and that there is no need for this majority of non-residents. That said, I wish to make it perfectly clear that in my view Gibraltar's interests, and particularly Gibraltar's Finance Centre interests, have been particularly well served by the particular overseas persons who have served as members of the Commission in Gibraltar. All the ones that I have always dealt with, whether professionally or politically, have always operated to Gibraltar's interests, they have always been motivated by Gibraltar's interests, they have contributed significantly to the development of the Finance Centre and our natural desire to repatriate ownership of these things to Gibraltar, in terms of appointments, should not be misread as any criticisms, still less as any lack of gratitude, to those individuals at an individual level who have occupied the overseas seats, if I can call them that, of the Financial Services Commission. Indeed, my intention would be that whilst this power vests in my hands, that any of the existing overseas commissioners who wishes to be re-appointed, will certainly be re-appointed. This is not an anti-overseas this group of people measure, they have done hugely valuable work for Gibraltar and my intention is that that should continue to be the case. There are then some consequential provisions about the duration of the appointments, the appointment of the

Chairman by the Commission itself, appoints a Chairman and things of that sort. There are provisions in sub-clause (4) about the filling of vacancies. Here is an interesting concept for the filling of vacancies, it provides that when there is a vacancy to be filled, the Commission shall within four weeks of the creation of the vacancy, nominate, so it nominates no fewer than three persons to the Minister for filling of the vacancy. The Minister does not have to appoint any of those, he can decline to appoint those, in which case the Commission shall within a period of four weeks nominate three more persons. If the Minister is still not satisfied with any of those persons, then the Minister can appoint whoever he wants but those appointments are subject to ratification by a Resolution of this House. So in a sense, it is ultimately a Ministerial appointment subject to ratification here in this House. It has got to be somebody that the Minister believes is suitably qualified. In terms of the other consequential amendments, if I could refer the hon Members, well, it is half half whether it is consequential or not. In clause 5, meetings and proceedings of the Commission, at the request of the Commission we have introduced the ability to do their business by round robin circulation of papers and by teleconferencing and things of that sort. Then there is clause 6 which deals with the functions of the Commission and they are set out there. None of this whistle blowing to the United Kingdom Government about whether our legislation provides for this or whether our legislation complies with that, all that goes out of the window and the functions of the Commission are to supervise, authorise persons in accordance with this Act and the supervisory Acts, to consider and determine applications. In other words, the licensing functions to monitor compliance by licensed people, to monitor compliance with codes and guidance, to monitor financial services business carried on or from Gibraltar and to take such appropriate action as it is empowered to do against persons carrying on such business without the licences. That is a new one, that is called in jargon patrolling the perimeter. In other words, it is no good having a licensing and regulatory regime for licensed people if one is not going to police people doing things without a licence. That is even worse than doing it badly with a licence. So the Financial Services Commission is

now empowered to patrol the perimeter, to make sure that nobody is doing something without a licence when a licence is needed to do it. To carry out the duties and discharge the functions imposed or given to it under this or any other Act. For example, now that the Commission is in local ownership, not in Government ownership but in local Gibraltar constitutional ownership, then the Government may wish to give it more functions. For example, regulating bureaux de change still sits with Customs and the Financial Secretary, logically speaking, the regulation of bureaux de change would be exercised by the Financial Services Commission who regulate banking and other related functions. That is something that indeed will happen. Although there is a list there of those functions, I will be introducing an amendment to item (k) in that list, to reclass it has been badly done the obligation to match UK standards is limited to those aspects of financial services which are subject to EU law. Whereas the way it has been drafted in (k) does not have the effect, it has the effect of subjecting all financial services. That is a mistake in drafting and hon Members will see in the letter that they have, that the new (k) will read: "in respect of those areas of financial services business where Community law applies, to supervise and regulate financial services business carried out in or from Gibraltar in accordance with Community obligations, and in those areas to establish and implement standards and supervisory practices which match the standards and supervisory practices governing the provision of financial services of the United Kingdom". Of course, I already said earlier that we had defined the matching standards to mean matching outputs not inputs. The whistle blowing function is now a whistle blowing to the Government. So under clause 6(2), the Commission shall advise the Minister if at any time it considers that this Act, this supervisory Act and the supervisory Acts, do not provide it with sufficient powers or otherwise do not enable it, or it does not have such financial, technical and other resources and such personnel as are necessary to enable it to supervise financial services to international accepted standards, and to discharge its functions under the Act. In other words, the obligation of the Commission to say, look, I cannot do my job as I am required to do by law, is something that they tell the

Government not that they tell the Governor or the Foreign Secretary or anything of the sort. Similarly, the Foreign Secretary and the Governor's powers to instruct audits of Gibraltar's finance industry, of which we had one recently the Prag Review, that goes too in favour of the power on the part of the Minister, in other words, the Gibraltar Government, too calls for audits, I think it is not more than once every four years, we will come to that section in a moment. Clause 7 deals with the discharge by the Commission of its functions, and in doing so shall have regard to the need to use resources in the most efficient and effective manner, with the principle that the duty to manage a business falls upon the senior management of the business. In other words, that a regulator is not there to run the business. Running the business safely and prudently remains the obligation of management. The principle that a burden or restriction which is imposed on a person on the carrying on of an activity should be proportionate to the benefits considered in general terms which are expected to result with the imposition of that burden or restriction. Well this is important. It cannot be regulation for the sake of regulation. The regulation has got to be proportionate to the regulatory objective so that it does not smother the ability of people to do business safely. They have to have regard to the desirability of facilitating innovation in connection with financial services business. They have got to have regard to the international character of financial services and market and the desirability of maintaining the competitive position of Gibraltar. Very important, there is no point in becoming such a safe, safe place that it is not possible for anybody to do business because they will go and set up somewhere else. So there has got to be a balance between that and international competitiveness. The desirability of minimising, as far as reasonably practicable, the adverse effects of regulation on competition and consumer choice. The need to maintain the good international reputation of Gibraltar generally as a jurisdiction for the conduct of international services business. Then, importantly, they shall have regard to the policy of the Government as advised to the Commission by the Minister on a matter of general application, relating to authorisation, licensing, recognition and registration of financial

services business, which in the judgement of the Minister affects or relates to the macro-economic or other public interest of Gibraltar. In other words, we had a discussion about this some months ago when we were doing the stock exchange legislation. It cannot be the case that because of independence of financial services regulation the Government of Gibraltar has no say about whether Gibraltar should have a stock exchange, or how many stock exchanges, or what sort of stock exchanges. This is not interfering in regulation or financing, this is recognising the fact that the regulator and the legislator cannot be the policy maker in respect of macro-economic issues, as opposed to regulatory and licensing issues. Otherwise, the Government would lose control in respect of the policy aspects of a vital element of the economy which is the Finance Centre. I am happy to say that the Financial Services Commission is perfectly content with this. Then, sub-clause (2) established regulatory objectives. Well, what are the objectives that they have to work to? These are (a) the promotion of market confidence; (b) the reduction of systemic risk; (c) the promotion of public awareness; (d) the protection of consumers; and (e) the reduction of financial crime. In fact, I am going to propose an amendment at the Committee Stage to add to that as a new (d), the protection of the reputation of Gibraltar. Now each of those lists of regulatory objectives, and this is important architecture, each of these is defined in more detail in Schedule 1. So, for example, it says of market confidence, "the market confidence objective is maintaining confidence in the financial system". The systemic risk objective is reducing the impact of the failure of one institution upon the financial system as a whole. The public awareness objective is promoting public understanding of the financial system and includes, in particular, promoting awareness of the benefits and risks associated with different kinds of investments or other financial dealings; and the provision of appropriate information and advice. The protection of the reputation of Gibraltar objective is the protection of the reputation of Gibraltar is taking such action as required by the Government, or is considered necessary by the Commission, in consultation with the financial sector and with the consent of the Minister, to preserve Gibraltar's reputation as a financial

services centre. The protection of consumers' objective is securing the appropriate degree of protection for consumers. In considering what degree of protection may be appropriate, the Commission must have regard to the different degrees of risk involved in different kinds of investment or other transaction, the different degrees of experience and expertise that different consumers may have in relation to different kinds of regulated activity, the needs that consumers may have for advice and accurate information, and the general principle that consumers should take responsibility for their decisions. The reduction of financial crime risk objective is reducing the extent to which it is possible for a business carried on by an unauthorised person, or somebody who is doing financial business without authorisation, to be used for a purpose connected with financial crime. Then it goes to define just a little bit of those things in slightly more detail. Clause 8 deals with the appointment of the Chief Executive, in effect the Commissioner, and that will in the future be that the Commission appoints with the approval of the Minister. So the Minister cannot select, the Commission selects, but they cannot select somebody of which the Minister does not approve. The Chief Executive shall be appointed, then it goes on, there are the usual provisions there about the terms of appointment and things of that sort. Then there are provisions which are dual key between the Minister and the Commission as to when the Chief Executive can be removed for absence, bankruptcy, impropriety behaviour and things of that sort. Clause 9 enables the Commission to delegate the discharge of any of its functions to the Chief Executive, or with the consent of the Minister, to such other person as the Commission may propose. So without the consent of the Minister the Commission can delegate its powers to its own Chief Executive. But if they want to delegate powers outside of the Commission, for that he requires the consent of the Minister. There are the usual provisions about disclosure of interests in clause 11. The appointment of committees in clause 12 and then, clause 13 is review of the supervisory activities. This is an important change in that it does away with the previous clause 12(a) which presently reads, "the Governor, acting with the approval of the Foreign and Commonwealth Secretary, shall appoint persons to

review the supervisory activities et cetera". The report shall be sent to the Foreign Secretary and all of that. Well, all of that goes and it is replaced by a clause 13(1) which simply reads, "the Minister may at any time, and shall at least once in every period of four years, appoint a suitable person or persons to review the supervisory activities under this or any supervisory Act of the Commission in relation to any functions et cetera and to report and make appropriate recommendations to the Minister". Then the Government have added a requirement that the Minister shall lay in the House a copy of every such review report within 30 days of its issue. In other words, we are changing a Financial Services Commission oversight review mechanism from being Governor/Foreign Secretary orientated, to being Government/Parliament orientated, as I believe that it should be. Clause 14 deals with and defines what are the revenues of the Commission and its powers to establish fees for the first time. At the moment the position is that fees are established by the Minister. Under this regime the Commission may, with the consent of the Minister, increase or vary any fees or charges. In other words, the Commission is for the first time given the ability to initiate fee increases, albeit that the Minister is able to veto it if he feels that increasing fees would have an undesirable adverse effect on the macro-economic interests of Gibraltar. Perhaps another item worthy of mention is clause 17, where there is a carefully structured and negotiated with the Commission regime. On the one hand financial independence is thought to be an important element of regulatory independence. On the other hand, the Financial Services Commission cannot be the only publicly funded organisation in Gibraltar that is accountable to nobody for the value for money with which it spends monies that it collects from people through licensing fees. In the name of independence of regulation, the Financial Services Commission cannot be the only organisation in the public sector exempt from exposure to financial scrutiny and accountability. Therefore, we have this provision in sub-clause (2) of clause 17, whereby the Minister may at any time and from time to time appoint any person or persons to conduct a value for money review of the expenditure budget of the Commission, and to report thereon to the Minister and the

Minister shall lay in the House a copy of any such report within 30 days of its receipt by him. So in any case, the Minister can commission value for money reports and table them in this House, presumably then for subsequent debate here. The existing confidentiality provisions are deleted from this Act, but only because they are going to be placed in a new Act that is going to deal with confidentiality in relation to many aspects of regulation across Gibraltar and gateways for in the case of international cooperation. So it is not that the need for confidentiality is being removed. Then clause 23 introduces a power for the Commission, with the consent of the Minister, to issue rules and guidance and things of that sort. This represents a move forward from where the Commission stands at the moment and is something that they have been after for some time. Now that the Commission is more locally accountable and locally owned, it is in the Government's view appropriate that they should have some of these law-making roles. I think it would be inappropriate for a Commission that was ultimately accountable to somebody else outside of Gibraltar, to have had any power to make rules or laws for Gibraltar. There are, of course, transitional provisions. In commending the Bill to the House we are doing two things. We are first of all improving and modernising our regulatory regime, but we are also reflecting in our legislation that there is no reason why this particular area of our economic activity should be subject to external, that is from outside of Gibraltar, constitutional control and supervision, unlike any other part of our economy. For that reason alone, I hope that hon Members on both sides of the House will welcome the Bill which I now commend to it.

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

HON F R PICARDO:

Of course this Bill will enjoy support on both sides of the House. The Chief Minister alluded to the references that the present

Commissioner, soon to be made Chief Executive himself, had made publicly in respect of this Bill for an Act. He described it as a cracking piece of legislation and there is no reason to suggest that it is not. There are only two points that I will take in respect of the Bill. The first in respect of one of the definitions, the definition of “financial crime”, which I see that the Chief Minister has moved an amendment for. Despite the deletion that he proposes and the insertion that he proposes, I am just concerned about what will remain which is this question of “and offence for this purpose means an act or omission which would be an indictable offence if it had taken place in Gibraltar”. I think, really, what we are trying to say is, offence for this purpose includes an act or omission which will be an offence. Perhaps he can tell us more about that when he replies because I understand the sensitivity of changing that word and I would like his views on it. In clause 7(2), one of the regulatory objectives must of course be the protection of consumers. That is presently (d) and it will become (e). Looking at the Schedule for further detail on what it is that the Commission will look at in the protection of consumers, there is an unobjectionable set of objectives there. What the Commission will not be able to do in trying to protect the interests of consumers is impose sanctions or penalties on licence holders if licence holders are acting contrary to the interests of consumers so far as the Commission may consider that they are. It may be that in the making of regulations under this Act they are able to do that. Consistently, when dealing with the issue of the TEP Plan holders, I have said in this House that I think that it is high time that we also consider the possibility of a financial services ombudsman that would have exclusively that concern as the reason for his office. I think this is a good time to suggest it. Although as a regulatory body the Commission must always have the protection of consumers in mind in its licensing capacity and its regulatory capacity, I think the protection of consumers would be better served with a financial services ombudsman, a matter which the Chief Minister and myself have considered on a number of occasions. He has, if he will excuse me for saying so, been hot and cold on the issue, I would like him to get hot on it again if he can. Finally,

there are minor typographical amendments which I will bring in the Committee Stage.

HON CHIEF MINISTER:

The first point the hon Member made was the definition of financial crime. The definition of financial crime reads as follows, it says “financial crime includes an offence involving those things”. Those things include handling the proceeds of crime. It is important to us that those things should not include fiscal offences. Fiscal offences in Gibraltar are not indictable, so it is important that the definition of offence in this Act means an act or omission which would be indictable, making it clear. It is not enough to say “includes”, it is only something that is indictable. If it is not indictable it is not a financial crime and that is the mechanism, the hon Member will recall, we used in respect of the Mutual Assistance Directive and things of that sort. If we were to say, as I think he has suggested, offence for this purpose includes, then the word “includes” is in a sense ambiguous because does one mean includes to the exclusion of everything else, or does one mean includes amongst other things? That is not tight enough for these purposes. It has got to be clear, the language has got to be clear that only indictable things are an offence for the purposes of this definition of financial crime in this Ordinance.

HON F R PICARDO:

He is absolutely right about how the indictable offence issue came into our legislation years ago. That is not the target I was trying to get to. The issue is, are these financial crimes only covered if they happen outside Gibraltar? The answer is not, of course, they must be financial crimes whether they have happened outside Gibraltar or whether they have happened inside Gibraltar. Whether they have happened inside or outside of Gibraltar, they must be indictable. I am concerned that the way that the second part of that, after the word “offence” where

it appears in the second part of that definition at the bottom, "offence" for this purpose means an act or omission which would be an indictable offence if it had taken place in Gibraltar", might suggest that none of these things are covered if they have taken place in Gibraltar. We are only trying to deal with money laundering, financing of terrorism, fraud or dishonesty, misconduct in the handling of the proceeds of crime outside of Gibraltar. Of course, we are trying to deal with them outside Gibraltar but also if those have occurred in Gibraltar and the proceeds of them are making their way into the financial system in Gibraltar as well.

HON CHIEF MINISTER:

Yes of course, if it takes place in Gibraltar it is an offence under some other Act. I do not know whether the distinction that the hon Member makes is required or not but it certainly does no harm and I do not mind reflecting it here. "Offences for this purpose means an act or omission which is indictable in Gibraltar or would be an indictable offence if it had taken place in Gibraltar".

HON F R PICARDO:

Yes I think that deals with the point, and leaves "means" instead of "includes".

HON CHIEF MINISTER:

Leaves "means" as it is, so in other words, I am accommodating both scenarios. Perhaps we can move that amendment at the Committee Stage. Then the hon Member raised the question of the inability to impose penalties. Precisely, these have amendments I am not sure that they have come through or that they are in the pipeline, the penalties arise, remember this is the Financial Services Commission Act, this is not the Financial

Services Act. In other words, the ability for the Commission to impose penalties for breach of these rules and guidance and things of that sort, is imposed in the regulatory Acts themselves as opposed to in the Act that establishes the Commission. There is and going to be even more scope for the imposition of penalties, regulatory penalties, I do not mean fines following convictions – regulatory penalties for things of that sort. Finally he raised the question of the ombudsman. I think that the way the Government's thinking is going at the moment, is that there will be an ombudsman for financial services but not necessarily exclusively for financial services, because we also need an ombudsman for the gambling industry, which also generates consumers, the on-line gambling industry. At the moment the proposal that we are putting and are developing is for the establishment of a financial services ombudsman and a gambling ombudsman that would be combined. Whether we call it the financial services and gambling ombudsman depends on whether we think there is an issue in suggesting that financial services and gambling are the same sort of thing. We may call it something else but he will have a separate financial services ombudsman function and a separate gambling, if we can just call it the consumer protection ombudsman or the consumer ombudsman. It is neutral as to whether it is financial services but the activity will include both financial services and gambling and then anything else we might want to add. We might want to create an ombudsman instead of a consumer protection officer, for example, then one has the ability just to add on economic activities for which we want there to be a consumer ombudsman.

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 MONEYLENDING (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Moneylending Act, 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 literally tidying up. I have explained in the past that the Government's wish is for all financial services legislation nomenclature to be preceded by the words "Financial Services" so that people can find it easily. There is a Moneylending Act and this Bill simply changes the name of the Moneylending Act to the Financial Services Moneylending Act. In other words, it just puts it in the stable of financial services legislation. I commend the Bill to the House.

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

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE DEVELOPMENT AID (AMENDMENT) ACT 2007

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Act to amend the Development Aid Act, 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 Development Aid Act in order to update its provisions for the current needs. Clause 1 of the Bill is a formal one that provides the title and commencement. Clause 2 amends the arrangements for section by substituting the word "Minister" for the word "the Financial and Development Secretary". Clause 3 amends section 2 by replacing the definition of "Minister" in order to describe the Minister's current responsibilities. In addition, clause 2 makes a few more consequential amendments to section 2 of the Development Aid Act. Clause 4 makes a consequential amendment to section 3 by deleting the

words “responsible for economic development as the Minister’s responsibility”. Clause 5 amends section 4 by substituting the words “Chief Minister” for the word “Governor”, for the purpose of appointing the Committee. Clause 6 amends section 5 in order to enable the Minister to appoint the secretary. Clause 7, there is an amendment to section 7(3), in order to introduce a prescribed fee for inspection of the register. Clause 8 amends section 10 in respect of the threshold for granting licences. These amendments seek to replace the threshold set out in the Act, that the applicant is expected to expend on execution of the project. The proposed amendments provide for the prescribed amount of threshold of granting licences. The thresholds are now prescribed by regulation 11 of the proposed Development Aid Licence (Amendment) Regulations 2007. By shifting the threshold from the Act to the Regulations, any change or modification in the thresholds, as and when required, would be easier. Clause 9 amends section 30, in order to require the application for the extension of the completion date of the project to be submitted to the secretary before the original expiry date of a project. Clause 10 amends section 14 in four places as consequential and also for the purpose of substituting the word “Minister” for the words “Financial and Development Secretary”. Clauses 12 to 16 make amendments to sections 15B, 15C, 15D, 15E and 15F, for the purpose of substituting the word “Minister” for the words “Financial and Development Secretary”. Clauses 17 and 18 amend sections 17 and 18 by substituting “Chief Minister” for the word “Governor”. Clause 19 makes some consequential amendments to section 20. Clause 20 repeals sections 22 and 23 of the Act, as they are currently redundant. This Bill will ensure the efficient administration of the Development Aid Act in terms of the new Constitutional changes. I commend the Bill to the House.

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

HON DR J J GARCIA:

We would like to ask a question in relation to the amendments that are being made to section 10 of the Bill. These are the ones where the specific sums of money are mentioned, in sections 10(2) and 10(3), and we are changing that to the words “the prescribed amounts”. The Minister has said the amounts to be given by regulation. We do not have a problem, in principle, with the Government deciding to do that by regulations instead of coming to the House every time that they want to change the figures. My question is, given that the existing law and the existing figures date back to the 1980s, and the power by regulation which the Government are going to have will allow them to reduce the existing figures as well as to increase the figures, what we would like the Government to state in the House is that it is not the intention to reduce the figures, given that the existing figures are already twenty years old. That is the only point I would like to have clarified.

HON J J HOLLIDAY:

In order for clarification, of course, the intention of the Government is to actually increase the figures and keep on reviewing those as time goes by. As the hon Member has pointed out, the figures that are stipulated in the current legislation are outdated and very old, so therefore the values relating to it means that very small projects actually fit in to the current stipulated amount and, therefore, what the Government wish to do is to obviously increase those in order to ensure that only projects of a certain size and merit actually justify to classify for the application of development aid in the first place. Secondly, that these figures can be reviewed as and when required in order to ensure that they comply and move with the trend of values.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

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

Question put. Agreed to.

**THE PUBLIC HEALTH (BLOOD SAFETY AND QUALITY) ACT
2007**

HON LT-COL E M BRITTO:

I have the honour to move that a Bill for an Act to transpose into the law of Gibraltar Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting out the standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and Commission Directive 2004/33/EC of 22 March 2004 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards certain technical requirements for blood and blood components, and Commission Directive 2005/61/EC of 30 September 2005 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards traceability requirements and notification of serious adverse reactions and events, and Commission Directive 2005/62/EC of 30 September 2005 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards Community standards and specifications relating to a quality system for blood establishments; and for connected purposes, 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 implementation of these Directives by way of this Bill and Act, will improve the safety and quality of the blood supply, and will help assure that the high standards are maintained in Gibraltar as in other parts of the European Union. The implementation of minimum standards of blood safety and quality throughout the European Union will have the following three main effects. Firstly, it will set a comparable level of quality and safety throughout the blood transfusion chain. That is, the collection, testing, storage and distribution of whole blood and blood components in all Member States. Secondly, Member States must enforce those minimum standards and establish structures of national inspection, training and accreditation in accordance with the principles of subsidiarity of the Treaty. Thirdly, it will make all blood donations traceable from donor to patient. That is, the principle of vein to vein. The provisions of the Bill transposing Directive 2002/98/EC, that is the principal Directive, set out standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components. The provisions of the Bill transposing Directive 2004/33/EC set out the technical requirements in support. The minimum standards set by these two Directives apply throughout the European Union. The provisions of the Bill transposing Commission Directive 2005/61/EC set out the format for notifying serious adverse reactions or events, define the minimum data required and lay down specific technical requirements dealing with traceability and reporting that apply to blood establishments, hospital blood banks and facilities where transfusions take place. The provisions of the Bill transposing Commission Directive 2005/62/EC set out the standards and specifications for the quality systems in blood establishments. The competent authority will enforce the provisions through a system of licensing, inspection and compliance verification. Breaches will

constitute an offence. The Minister for Health is designated as the competent authority. The Bill also introduces provisions to govern the operation of blood establishments. That is, establishments which collect, process and test human blood and blood components, and hospital blood banks. That is, hospital units which store, distribute and perform compatibility tests on blood and blood components for use in hospitals. These provisions relate specifically to traceability requirements and to notification of adverse reactions and events. They introduce Community standards and specifications relating to a quality system for blood establishments. The Bill also makes provisions relating to record keeping and traceability of blood and blood components to a new category of facility, defined as a hospital, any other or service owned or managed by the Gibraltar Health Authority, a clinic, a manufacturer or a bio-medical research institute. Finally, I have given notice and I believe it has been distributed to all Members, that I will be moving a small amendment at the Committee Stage to clause 24, deleting the word "other" just before the words "Member States". The purpose of this amendment I will describe at the Committee Stage. 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 ELDERLY CARE AGENCY (AMENDMENT) ACT 2007

HON MRS Y DEL AGUA:

I have the honour to move that a Bill for an Act to amend the Elderly Care Agency Act 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, there is a legal requirement under the Elderly Care Agency Act for the Agency to meet at least once every month. The regularity of these meetings was necessary when the Agency was first formed. The Agency feels, however, that meeting on a quarterly basis is sufficient to meet the needs of the Agency, whilst giving it the option to meet more regularly as and when important issues for discussion arise. The proposed Bill amends section 5(2) of the main Act to achieve this objective. 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.

THE SOCIAL SERVICES AGENCY (AMENDMENT) ACT 2007

HON MRS Y DEL AGUA:

I have the honour to move that a Bill for an Act to amend the Social Services Agency Act 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, the existing provision in the Social Services Agency Act restricts the number of persons that can be appointed as members of the Agency to four. The Agency would like to have the flexibility to increase the number of appointable members when this is considered necessary in the interests of the Agency. This short Bill amends section 3(1)(c) of the main Act to achieve this objective. 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 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 Civil Contingencies Bill 2007;
2. The Mutual Legal Assistance (International) (Amendment) Bill 2007;
3. The Mutual Legal Assistance (European Union) (Amendment) Bill 2007;
4. The Financial Services Commission Bill 2007;
5. The Moneylending (Amendment) Bill 2007;
6. The Development Aid (Amendment) Bill 2007;
7. The Public Health (Blood Safety and Quality) Bill 2007;
8. The Elderly Care Agency (Amendment) Bill 2007;
9. The Social Services Agency (Amendment) Bill 2007.

THE CIVIL CONTINGENCIES BILL 2007

Clauses 1 to 20 – were agreed to and stood part of the Bill.

Schedule – 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 (INTERNATIONAL) (AMENDMENT) BILL 2007

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

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

THE MUTUAL LEGAL ASSISTANCE (EUROPEAN UNION) (AMENDMENT) BILL 2007

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

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

THE FINANCIAL SERVICES COMMISSION BILL 2007

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

Clause 2

HON CHIEF MINISTER:

Can I just ask the hon Members now to have to hand the letter of amendment, there are quite a few minor amendments and one or two less minor ones which we shall take. In clause 2, in the definition of “Commission member”, after the words “Commission Member” I would like to introduce the word “and “member””. In other words, the definition of “Commission member” and the definition of the word “member” both mean an individual appointment. In some part of the legislation it is just as “member” not “Commission member”. So it is just a common definition for two different phrases, “Commission member” or just “member” by itself. So we will be adding the words after the closed inverted commas, the word “and”, and then “member”. Then in the definition of “financial crime”, as I indicated before, we will be deleting the words “arising through the conduct of authorised or unauthorised financial services business”. I think hon Members might be interested in my pointing out to them that in the definition of “reduction of financial crime” in the Schedule, it already says “the reduction of financial crime objective is reducing the extent to which it is possible for a business carried on by, (a) an authorised person; or (b) a person carrying on financial services business without holding the necessary authorisation, licence or registration” is exactly the same as it says there and it is, therefore, duplication. Then we would add, pursuant to the exchange that I had with the Hon Mr Picardo, after the word “which” in the penultimate line, we would add the words “is indictable in Gibraltar or”. So that it would read ““offence” for this purpose means an act or omission which is indictable in Gibraltar or would be an indictable offence if it had taken place in Gibraltar”.

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

HON CHIEF MINISTER:

I wonder if I could just take the Committee back. On reflection it may be that it is not quite as simple as that. I mean, the

adjective “indictable” can describe the noun “offence” but I do not think that it can describe “act or omission”. I mean, an act or omission is not indictable or not indictable, what is indictable or not indictable is the offence. Then it would be reading “offence” for this purpose means an act or omission which is indictable”. We have to somehow put the word “offence” in there. For “an act or omission which is an indictable offence in Gibraltar or”, yes.

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

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

Clause 4

HON CHIEF MINISTER:

In clause 4(4) there is a cross reference error, the reference should be to section 19 and not to section 18.

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

Clause 5 – was agreed to and stood part of the Bill.

Clause 6

HON CHIEF MINISTER:

In clause 6(1)(c), this is typographical, they should not be in capital letters, the words “Legislation, Rules, Codes and Guidance”. It should start with a small “l”, small “r”, small “c” and small “g”.

HON F R PICARDO:

I was waiting for the Chief Minister to finish that point. There is another problem of a similar nature throughout (a), (b) and (c). That is that supervisory Acts should have a capital “S” because it is defined in section 2 as capital “S” and “authorised person” is defined also in section 2 as capital “A” authorised, small “p” as it is person. So I think we need to make those minor amendments to “supervisory” and “authorised”.

HON CHIEF MINISTER:

Well, I fear that the words “authorised person” probably features quite a lot in the Bill and it may be easier, if it has not been done anywhere, to alter the defined term to remove the capital “A”. He is right.

HON F R PICARDO:

I have no difficulty with that. In fact, looking at that definition, I see that it also refers to “supervisory Act” with a small “s”. So I do not know whether it is also easier for the draftsman to simply define “supervisory Act” with a small “s” as well.

HON CHIEF MINISTER:

I am now noticing that throughout the rest of the Bill, when “supervisory Act” is stated it has got its capital “S”.

HON F R PICARDO:

Well, there are other places where it has got a small “s”.

HON CHIEF MINISTER:

Can I suggest that we leave it as it is, “supervisory Act”, and that we will instruct that before publication that all these errors can be corrected and made consistent, rather than us do that across the floor of the House. So that the Committee is, in effect, amending so that references to defined terms appear in the case that they appear in that they are defined.

HON F R PICARDO:

I did not realise quite what the Commissioner meant when he said it was a cracking piece of legislation.

HON S E LINARES:

I think it is the same, I do not know whether they want to change “(d) legislation, rules and then codes and guidance”. It is two capitals and two small letters.

HON CHIEF MINISTER:

Yes, thank you. Then elsewhere in clause 6, a bit of tidying up, in 6(1)(k), the language should be deleted so the words “to supervise” all the way down to “United Kingdom”, should be deleted and replaced by the language that appears in my letter. “In respect of those areas of financial services business where Community law applies, to supervise and regulate financial services business carried on in or from Gibraltar in accordance with Community obligations and in those areas to establish and implement standards and supervisory practices which match the standards and supervisory practices governing the provision of financial services within the United Kingdom.” Then in sub-clause (2) of clause 6, the whole of (ii) would disappear and “(iii)” would be re-numbered “(ii)”.

Clause 6, as amended, was agreed to and stood part of the Bill.

Clause 7

HON CHIEF MINISTER:

In clause 7(2), paragraphs “(d)” and “(e)” should be re-lettered “(e)” and “(f)” and a new paragraph “(d)” inserted. That should read “(d) the protection of the”, and even though I have given notice that it should read “the protection of the reputation of Gibraltar”, I suppose it should be “the protection of the good reputation of Gibraltar”. Since if we had a bad reputation we would not wish to protect that.

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

Clause 8

HON CHIEF MINISTER:

In clause 8(6)(f), the reference to “a member” in (f) should be a reference to “the Chief Executive”. So the proposed amendment is the deletion of the words “a member” and their replacement with the words “the Chief Executive”, because the whole sub-clause is about the inability of the Chief Executive, not about the inability of a member of the Commission.

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

Clauses 9 to 15 – were agreed to and stood part of the Bill.

Clause 16

HON CHIEF MINISTER:

In clause 16, there is an amendment which I introduce at the request of the Commission. The Government were of the view that because the Commission is audited by its firm of accountants that is itself regulated by the Commission, and because a firm of accountants that is the auditor may also have other clients who in turn are regulated by the Commission, it is undesirable that there should be an indefinite relationship or a very close relationship to develop between the Financial Services Commission and its auditors, because its auditors are both its auditors in one sense, but also a regulated firm on the other. Therefore, the Government felt that the Commission should not use the same auditors for more than five years. After five years there should be a change of auditors, at least for one year. The Commission would prefer that we introduced "unless approved by the Minister". In other words, so that if the Commission come after the Minister to say, well look, this is an awkward year to change auditors because we are in the middle of changing this, or we are in the middle of changing that, can we please have permission to carry on for one more year before we change auditors?, there should be a mechanism available to bring that about. So the Government would have no difficulty if we added the words there, "unless approved by the Minister", given that the whole provision is something that the Government want to put in and not something that the Commission, this does not exist at the moment. At the moment there is no limitations. The Commission has not asked for this, the Government have put this in. The Commission are saying would we at least allow for a mechanism for flexibility. Given that it is our proposal in the first place we do not mind.

HON F R PICARDO:

That makes sense but, certainly, the language that the Chief Minister is referring to in the new clause is very welcome language, for the reasons that the Chief Minister has set out. I think that because this has been said in the House, we should

ensure that the Commission understands that it is unlikely to receive favourable consideration from the Minister to extend the period, unless there are exceptional circumstances made out.

HON CHIEF MINISTER:

Let me hasten to say, as I am sure the hon Member also means to say, that the fact that we introduce robustness of this sort into a regime is to impugn nothing against present auditors or present officials of the Commission. It is a simple check and balance measure, which is to do with the integrity of the system and not to do with the integrity of any incumbent auditor or incumbent Commission employee.

Clause 16, as amended, was agreed to and stood part of the Bill.

Clauses 17 to 23 – were agreed to and stood part of the Bill.

Clause 24

HON CHIEF MINISTER:

I think in clause 24 there is a series of minor cross reference errors. In sub-clause (4) the reference to subsection "(2)" should be a reference to subsection "(3)". So the little (2) becomes the (3). The reference in sub-clause (5) to subsection "(2)" should also be a reference to subsection "(3)". The reference in sub-clause (6) to subsection "(4)" should be a reference to subsection "(5)". The reference in sub-clause (8) to subsections "(1) or (2)", should be a reference to subsections "(1), (2) or (3)". The reference in sub-clause (9) to subsection "(1)" should be a reference to subsection "(1) or (2)". The reference to "subsection (2)" should be a reference to "subsection (3)".

Clause 24, as amended, was agreed to and stood part of the Bill.

Clauses 25 to 28 – were agreed to and stood part of the Bill.

Schedule

HON S E LINARES:

There should be an amendment in the Schedule in that the protection of the good reputation of Gibraltar should be added, the word “good” should be added because it is not there, since it was done before.

HON CHIEF MINISTER:

Both in the title and in the first line of the text, and in the last line of the text “preserve Gibraltar’s good reputation as a financial centre”. I am obliged to the hon Member.

The Schedule, as amended, was agreed to and stood part of the Bill.

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

General amendment

The Hon the Chief Minister moved that the LSU ensure that all defined terms are accurately reflected in the text of the Bill.

THE MONEYLENDING (AMENDMENT) BILL 2007

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

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

THE DEVELOPMENT AID (AMENDMENT) BILL 2007

Clauses 1 to 8 – were agreed to and stood part of the Bill.

Clause 9

MR CHAIRMAN:

May I ask the Members present to have a look at Clause 9? It is almost a professional interest over here. Does not the use of the word “original expiry date” preclude any second or successive extensions? The talk of an application having to be made before the original expiry date, one may do that on the first extension then after the first extension one passes the original expiry date.

HON CHIEF MINISTER:

I think it is a reference to the original expiry date of the project.

MR CHAIRMAN:

All extensions would, invariably, involve.....

HON CHIEF MINISTER:

I will have to look at it more carefully, but I think the sense of this is that one cannot ask for an extension after the project is finished. So if the project is extended once, oh I see what Mr Chairman means, one may grant an extension so that there is a new expiry date and then one may want to ask for a further extension, which one can ask for between the date of the original expiry date and the first new expiry date. Well, yes, that

could read then, "before the expiry date of the project". The word "original" is possibly superfluous there.

HON F R PICARDO:

Section 13 deals with licences not projects, so the expiry date of the licence is probably the better way, because what one would be extending would be the licence.

HON CHIEF MINISTER:

I do not think the hon Member is correct, because although he is right in saying that this is about licences, of course, a Development Aid Licence does not expire for quite a long time after the project. For example, if one has got rate relief that will be there several years thereafter. So, that cannot be a reference to expiry date of the licence. Every licence specifies an expiry date for execution of the project and that is what this is a reference to. Now, I agree that it would be better for it to read "the expiry date of the execution of the project", as opposed to "the expiry date of the project" as if the project somehow expired. Such an amendment might be desirable but I think the one that he proposes is not. I accept the amendment proposed by Mr Chairman pursuant to the somewhat novel process by which the Chairman proposes amendments. I think it is probably correct.

MR CHAIRMAN:

I am only drawing attention to this.

HON CHIEF MINISTER:

I agree, I am not complaining. The fact that it is novel is not to say that it is a criticism.

HON F R PICARDO:

He has done it in every House since he took the chair.

HON CHIEF MINISTER:

So it is not even novel, alright.

HON F R PICARDO:

What is the proposed amendment?

HON CHIEF MINISTER:

Well, the Chairman is recommending to somebody on the floor of the House to consider moving an amendment that the amendment in the Bill should delete the word "original", because if one has got to ask for an extension before the original expiry date, if when one first applies for a Development Aid Licence, one is required to complete the project by 31st December 2007. This says, before 31st December 2007, one has to ask for an extension. Let us say one does and gets an extension to 31st December 2008, one may want to apply during 2008 for a further extension and this prevents it from being given because one would have had to apply for that extension before December 2007, that is, the original completion date. In other words, it just prevents second applications after the expiry of the first one. One might still be able to get in a second one before the original date, but it certainly prevents any such applications after the original expiry date. I think that can be dealt with simply by deleting the word "original".

HON S E LINARES:

Is the word "execution" going to be added?

HON CHIEF MINISTER:

In respect of the project or the hon Member? I do not have the power to do it to the hon Member. I was in jest, the hon Member is absolutely right.

HON S E LINARES:

Before the expiry date of the execution of the project.....

HON CHIEF MINISTER:

Before the expiry date for the execution, for the completion of the project. So we are deleting the word "of" and adding the words, no we are not deleting the word "of" sorry. We are just adding the words "for the completion" after the word "date", and we are deleting the word "original". "Before the expiry date for the completion of the project".

Clause 9, as amended, was agreed to and stood part of the Bill.

Clauses 10 to 20 – were agreed to and stood part of the Bill.

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

THE PUBLIC HEALTH (BLOOD SAFETY AND QUALITY) BILL 2007

Clauses 1 to 23 – were agreed to and stood part of the Bill.

Clause 24

HON LT-COL E M BRITTO:

I have circulated an amendment to clause 24 which asks for the deletion of the word "other" where it appears before the words "Member States". The reason for this is simple, because Gibraltar is not a Member State in its own right, the word "other" implies that we need not notify the UK, as we are part of the Member State UK. For the avoidance of doubt, eliminating the word "other" then it is clear that we will be notifying everybody, including the UK.

Clause 24, as amended, was agreed to and stood part of the Bill.

Clauses 25 to 27 – were agreed to and stood part of the Bill.

Schedules 1 to 7 – were agreed to and stood part of the Bill.

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

THE ELDERLY CARE AGENCY (AMENDMENT) BILL 2007

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

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

THE SOCIAL SERVICES AGENCY (AMENDMENT) BILL 2007

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

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

THIRD READING

HON CHIEF MINISTER:

I have the honour to report that:

The Civil Contingencies Bill 2007;

The Mutual Legal Assistance (International) (Amendment) Bill 2007;

The Mutual Legal Assistance (European Union) (Amendment) Bill 2007;

The Financial Services Commission Bill 2007, with amendments;

The Moneylending (Amendment) Bill 2007;

The Development Aid (Amendment) Bill 2007, with amendments;

The Public Health (Blood Safety and Quality) Bill 2007, with amendments;

The Elderly Care Agency (Amendment) Bill 2007;

The Social Services Agency (Amendment) Bill 2007;

have been considered in Committee and agreed to, in some cases with amendments, and I now move that they be read a third time and passed, with the exception of the Civil Contingencies Bill 2007, the third reading of which should be left for the next sitting of the House.

Question put.

The Mutual Legal Assistance (International) (Amendment) Bill 2007;

The Mutual Legal Assistance (European Union) (Amendment) Bill 2007;

The Financial Services Commission Bill 2007;

The Moneylending (Amendment) Bill 2007;

The Development Aid (Amendment) Bill 2007;

The Public Health (Blood Safety and Quality) Bill 2007;

The Elderly Care Agency (Amendment) Bill 2007; and

The Social Services Agency (Amendment) Bill 2007

were agreed to and read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 16th April 2007 at 10.00 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 1.20 p.m. on Thursday 29th March 2007.

MONDAY 16TH APRIL 2007

The House resumed at 10.05 a.m.

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 Miss M I Montegriffo

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

BILLS

FIRST AND SECOND READINGS

**THE AUDITORS APPROVAL AND REGISTRATION
(AMENDMENT) ACT 2007**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Auditors Approval and Registration Act 1998, 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 short Bill makes some tidying-up amendments to the existing Act. First, it re-titles, in common with other Acts, as we are doing with other Acts and as I have explained to this House before, amending other Acts dealing

with financial services by inserting the words "Financial Services" in front of the name of the Act. So that this Act will henceforth be known as the Financial Services (Auditors Approval and Registration) Act. The Act also bring the Ordinance under the purview of the Minister for Financial Services. The other changes relate to the requirements for registration and continued registration, so that fees for registration are paid in accordance to regulations being made. The main change is new section 6(5)(b), which now requires an annual return to be sent to the Board in respect of activities in the previous year. This will enable the Board to carry out its regulatory duty of ensuring the continued professionalism and submission to regulatory good practice of those who are registered as auditors. Finally, subsection (3) of section 13, that is proposed clause 2(e) of the Bill, provides that fees that are collected from registrees, should after defraying administrative costs of the Financial Services Commission, be used for the purposes of the Board. The sort of things there is in mind there is training within the auditor profession and things of that sort. The industry has been consulted on these minor changes and is content with them. 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 later today.

Question put. Agreed to.

THE COOPERATIVE SOCIETIES (SCE) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to give effect to Council Regulation (EC) No. 1435/2003 of 22nd July 2003 on the Statute for a European Cooperative Society (SCE), to transpose into the law of Gibraltar Council Directive 2003/72/EC supplementing the Statute for a European Cooperative Society with regard to the involvement of employees, 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, I shall not repeat the purposes of the Bill as described in the Long Title, which has just been read to the House. The hon Members will be aware that the Regulation sets up a framework for a new type of pan-European institution, capable of operating across Member States on the basis of registration in one Member State. The Directive requires a particular level of employee involvement in these institutions. The language of the Bill follows the Regulation and the Directive closely. The Regulation permits the creation of a cooperative by persons residing in different Member States, or by legal entities established in different Member States. With a minimum capital requirement of €30,000 these new SCE's, or Societe Cooperative Europeene, can operate throughout the internal market with a single legal identity, set of rules and structure. They can expand and restructure their cross border operations without the costly and time-consuming exercise of setting up a network of subsidiaries. Cooperatives from several different

countries are able to merge as SCE's. In addition, a national cooperative operating in a different Member State from the one in which it has its registered office, can be converted into a European Cooperative without first having to be wound up. The stated aim of this legislation, is to facilitate cooperatives and other organisations wishing to engage in cross border business, by making legislative provision that takes account of their specific features. The SCE is defined as a body with legal personality for which the capital subscribed by its members is divided into shares. Its registered office, which is to be specified in its rules, must be within the Community and must be in the same place as its central administration. The SCE is to have legal personality from the day of its registration in the State in which it has its registered office. An SCE needs to have as its principal object the satisfaction of its members' needs and/or the development of their economic and social activities. In particular, through the conclusion of agreements with them to supply goods or services, or to execute work of a kind that the SCE carries out or may commission others to do for it. The formation of an SCE is governed by the law applicable in the State in which it has its registered office. Thus, an SCE formed in Gibraltar will be governed by the Cooperative Societies Act of Gibraltar. An SCE may be formed as follows: by five or more natural persons resident in Gibraltar and at least one other Member State; by five or more natural persons and companies and firms, within the meaning of the second paragraph of Article 48 of the Treaty, and other legal bodies governed by public or private law formed under the law of Gibraltar, resident in or governed by the law of Gibraltar and at least one other Member State. By companies and firms within the meaning of the second paragraph of Article 48, and other legal bodies governed by public or private law formed under Gibraltar, which are resident in or governed by the law of Gibraltar and at least one other Member State, by merger and by other entities set out in the Bill. The capital of an SCE is represented by their members' shares expressed in sterling. It may not be less than €30,000 or the equivalent in sterling. An SCE whose registered office is outside the euro zone may also express its capital in euros. There are rules for the provisions that apply to the increase or

reduction in capital. The founder members of an SCE are required to draw up the statutes of it, in accordance with the provisions of the Cooperative Societies Act. Where the SCE, obviously, has its registered office here the statutes need to be in writing and signed by the founder members. The statutes of the society must include at least its name, the words preceded or followed by the abbreviation "SCE" and, where appropriate, the words limited, the statement of the objects, the names of the natural persons and names of the entities which are the founders, its objects, its registered office et cetera. The same sort of things which we are used to seeing in our own companies legislation. The registered office of an SCE may be transferred to another Member State without resulting in the winding-up of the SCE or the creation of a new legal person. So as the registered office is transferred, so too does the domicile and the national law under which the SCE is deemed to be formed. An SCE must be treated in every Member State as if it were a cooperative formed in accordance with the law of the Member State in which it has its registered office. So, if one transfers the registered office, one becomes subject to the national laws relating to cooperative societies of the Member State to which one transfers the registered office. Every SCE must be registered in Gibraltar where it has its registered office here. Notice of an SCE's registration and of the deletion of such registration must be published, for information purposes, in the Official Journal of the European Union. There are rules in the Regulations providing for the structure of the SCE, of its Board and, indeed, of the way it carries out its business through its general meetings, administrative boards and statutes. For its part, the Directive governs the involvement of employees in the affairs of SCE's. It aligns the laws, regulations and administrative provisions in force in Member States, so as to cater for the involvement of employees in the running of the SCE. The arrangements for the involvement of employees must be established in every SCE, in accordance with the negotiating procedure, or in accordance with the standard rules on the involvement of employees set out by this Directive. Whether management or administrative organs of participating legal entities draw up a plan for the establishment of an SCE, they

must, as soon as possible, take the necessary steps to start negotiations with the representatives of the legal entity's employees, or on arrangement for the involvement of employees in the SCE. For this purpose a special negotiating body, representative of both employees and the employers, participate in the legal entities and concerned subsidiaries or establishments shall be created, and there are some detailed and specific rules about how that must take place and how the employees are represented, by what mathematical percentage representational formula, where an SCE has employees in more than one Member State. The special negotiating body and the competent organs of the participating legal entities, must determine by written agreement, arrangements for the involvement of employees within the SCE. To this end, the competent organs of the participating legal entities, shall inform the special negotiating body of the plan and the actual process of establishing the SCE up to its registration. Agreement on these arrangements for the involvement of employees must be negotiated in a spirit of cooperation between the competent organs of the participating legal entities and the special negotiating body, in accordance with the laws of Gibraltar, where the registered office of the SCE is situated here. Negotiations must commence as soon as the special negotiating body is established and may continue for six months thereafter. The parties may decide, by joint agreement, to extend these negotiations up to a total of one year from the establishment of the special negotiating body. There are provisions for what must be contained within the agreement, and they are such things such as the scope of the agreement, the composition, the allocation of seats, the functions and procedures of the body, the way in which it is going to consult and inform, the frequency of meetings, the financial and material resources to be allocated to the representative body, the arrangements for implementing information and consultation procedures and things of that sort. Then the Bill lays down standard rules that will apply if either the parties agree that the standard rules should apply, or if they cannot come to an agreement in the special negotiating body. So that absent an agreement, or if the parties decide that they like the standard vanilla flavour and they do not want to

negotiate a different agreement, the standard vanilla, so to speak, the standard set of rules apply to such special representative bodies, set out in the Annex to the Directive and in the Bill, will apply. Finally, the Bill makes provision for confidentiality obligations, the operation of the representative body, the procedure for the information and consultation of employees, as I have said, the protection of employees representatives and other details which are necessary for its smooth operation. Reminding the House that this is the implementation of European Union obligations, 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 FINANCIAL SERVICES (TEMPORARY BUSINESS CONTINUITY) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to exempt from the authorisation requirements in certain financial services legislation, persons who, in relevant circumstances, set up temporary business continuity arrangements in Gibraltar; 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 is based in order to implement the policy that Gibraltar should be available as a jurisdiction from which financial services institutions, who are temporarily displaced from another jurisdiction by natural disasters and things of that sort, should be able, temporarily, to establish a business recovery operation. There are several jurisdictions around the world that are offering these facilities, so that for example, if there were a bank established, historically, a business recovery has been thought of as being, well I had better have a back up computer system in another building in case my building suffers a fire. So banks set up so-called data back up rooms in another building but usually in the same jurisdiction. Nowadays, with the globalisation and the computerisation of business activity, the financial services industry, not just the financial services industry, all industries that rely on global market places through the internet, through communications technology, now extend their view towards the need for resilience. In other words, continuity, not just to something happening to the building that one is in but, indeed, something happening to the country that one is in. That might be that one is located in a small island somewhere that might suffer a volcanic eruption, or an earthquake, or a tsunami, or there might be civil unrest, or there might be a sudden change of political regime in terms of a coup of something like that, or there may be terrorist attacks involving security instability, and a licensed financial services institution established in such a country may be unable, immediately at no notice, to continue to communicate with its clients because of all its records. This legislation, it is not novel, similar legislation exists in other

places, is to give the Financial Services Commission, with the consent of the Minister for Financial Services, permission to enable such an organisation, such an institution, to initiate, in other words, to engage a back up facility, it is called a business continuity recovery facility, that of course, it has to have established here long before. So it is not as if these things happen and they ring up, do you mind if I come to Gibraltar? This involves establishing facilities, establishing offices, establishing communications facilities, indeed, establishing emergency skeletal staff, so that at a given notice one swings ones business recovery facility into action. That is the principle of it, that is the theory of it, it is increasingly a matter of demand, financial services institutions want these facilities, not just financial services I said gambling companies too. This Bill just creates the framework in which that can be done and the basic provision of the Bill is that it gives the Financial Services Commission, as I have said, with the consent of the Government, the ability to allow its temporary, initially for 60 days, 30 days even in some specified circumstances, facilities to continue. It is not a permanent relocation to Gibraltar because this is not a full financial services licence in Gibraltar, it is simply a means of using equipment in Gibraltar to continue to use ones overseas licence, but which under our strict law would require one to be licensed here. For example, if our law says that one is deemed to be carrying on banking business in Gibraltar and therefore need a banking licence in Gibraltar; if ones main computer server is located in Gibraltar and one needs to use ones main computer server as part of this business recovery plan, that would be triggering the need for a financial services licence in Gibraltar. What this legislation does is exempt such organisations from being technically required to have a financial services licence in Gibraltar. They are therefore exempt from that where they are not really Gibraltar-established or Gibraltar financial services companies, but really just using a physical recovery facility in Gibraltar to enable physically their continuation of their business under their established licence elsewhere. So hon Members will see that clause 3 of the Bill sets out the requirements for such exemptions. First of all they will see that there is definition of "relevant event", with the sort of

things that must have happened before this can come into play, any unexpected interruption to the operation of or accessibility to the computer and any ancillary equipment of the exempt person, due to an event beyond his control, occurring in his home State caused by fire, hurricane, tidal wave, tornado, flood, volcanic eruption, act of God or any other kind of natural disaster, or an act of war or terrorism, not being social upheaval due to political factors or governmental action, or criminal damage. The requirements for the exemptions are then in clause 3. A person seeking exemption must enter into a contractual arrangement with the host, such that upon the happening of a relevant event, that person will carry on or cause to be carried on exempt operations in or from within Gibraltar, utilising the equipment provided by the host. The persons seeking exemption must submit to the regulator a certificate from his home State supervisory authority, certifying that he is authorised to carry on in that State, the financial services business in respect of which he is seeking exemption but that he has been complying with the regulatory requirements of that State in respect of that business. The person seeking exemption must undertake to continue to comply at all times with the regulatory requirements of his home State supervisory authority. So hon Members will see that this is in no sense a temporary Gibraltar financial services licence, it is an exemption from the Gibraltar financial and one remains liable to discharge ones business in accordance with ones own licence. Clause 4 sets out the various exemptions that can be given in respect of banking, sub-clause (1); insurance sub-clause (2); investment services sub-clause (3). Sub-clauses (7), (8) and (9) say that, well sub-clause (8) says that the Minister may by Order published in the Gazette, insert further proof into or delete any provisions in sub-clauses (1) to (3), or amend the references to any of those provisions. In other words, the clauses, the references to the clauses in the financial services licensing legislation, from which exemptions can be given. Sub-clause (9) then provides that the power under clause 8, that is to say, the power to amend those references, shall be exercisable by Order subject to annulment of that Order by Resolution of the House at the meeting of the House next following the date of publication of the Order. So if

the Minister makes an Order under sub-clause (8), modifying the references in sub-clauses (1), (2) or (3), he then has to bring a Resolution to the House at the next meeting, seeking the House's support. If the House annuls the decision then, obviously, the decision is annulled and the amendment does not take place. Clause 5 sets out the conditions, the documents that must be provided to the Gibraltar regulator, so that this can be permitted. Hon Members will see that they are the sort of things that one would expect, the copy of the agreement for the provision of the temporary business continuity arrangements, must pay the regulator for making the initial exemption, he must operate the equipment in accordance with the Act and any regulations made thereunder, he must at all times comply with any directions issued or requirements imposed from time to time by the regulator, must notify the regulator of various changes et cetera. Clause 6 deals with the duration and revocation of these exemptions, and it says that an exemption shall be valid for a period of 30 days, where the home State supervisory authority is unable to continue its functions. So if the event causing the need to initiate the use of the Gibraltar recovery facility is an event that has disabled the home State regulator from carrying out his business. In other words, the regulator cannot function either, then the exemption is only valid for 30 days and it is as temporary as that. In other circumstances it is 60 days. Then there are provisions about the creation of an offence, if anybody makes false claims in order to be exempt. Clause 8 is a general regulation making power. This is a piece of legislation that is fully supported by the Finance Centre and the regulator, and indeed, by the Government, obviously. It is just another source of potential business, for Gibraltar, for our telecommunications provider, for our property developers and for everybody that benefits, which is the whole community, from the additional economic activity in Gibraltar. I commend the Bill to the House and in doing so, I would just point out to the House that hon Members have already had sight of a letter in which I give notice of one or two minor amendments that I will bring to the Bill during its passage through Committee. 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 GIBRALTAR LAWS (GENERAL AMENDMENT) (NO. 1) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the laws of Gibraltar following the coming into effect of the Gibraltar Constitution Order 2006, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill, as the title suggests, brings into effect certain amendments to Gibraltar's general body of laws, all laws, all statutes, to reflect wholesale changes introduced by the Constitution. So rather than amend each Act separately, this is a sort of omnibus Act and it deals with, in some instances,

changes of nomenclature, in other instances where powers had been given to the Financial and Development Secretary, in Gibraltar legislation historically, when he was de facto Finance Minister. Now that we have our own Finance Minister there is a change of reference to that as well. Some of the references to the Attorney General become references to the Minister for Justice for the same reason. But, obviously, not those references to Attorney General that relate to the role of the Attorney General as the Director of Public Prosecutions. It is only those functions of the Attorney General that were equivalent to the functions of a Minister of Justice that are affected by this Bill. In any event, the Bill is called the Gibraltar Laws (General Amendment) (No. 1) Act 2007. It is called the No. 1 Act because this does not deal with every reference to Governor, it does not deal with all the legislation. It deals, I calculate, with about 90 per cent or 95 per cent of them, and there will be a need for a second Act. For example, we have just dealt here with the legislation which is clear, and even then we appear to have made one or two mistakes which I will be moving an amendment. So, for example, hon Members will see that there is no legislation in this Schedule relating to law enforcement, relating to public service, relating to the sort of things which, it is not that they are grey, but some references may be changeable but not others, depending on the specific reference. In other words, it is necessary to go through the legislation by virtue of the area and the subject matter, it is necessary to go through it with a finer toothcomb. In this No. 1 Act all we have done is push through the ones that are more straightforward, that are clear, and do not have to be done in slower order. So there will be a No. 2 Act in respect of the current Acts which make references to Attorney General, Governor and things of that sort that are not amended by this. Clause 2 says that in accordance with sections 33(5) of Annex 1 to the Gibraltar Constitution Order 2006, all Acts and other statutory instruments in which the word "Ordinance" appears, shall be amended by substituting for the word "Ordinance" the word "Act". Hon Members may recall that the Constitution says that henceforth Ordinances shall be known as Acts, and that all references in legislation to Ordinances shall be deemed to be

references to Acts. Technically, this particular amendment is not required but so that people who in future may be reading our legislation should not have to have recourse to the Constitution to understand it, then we are, in addition by this Bill, semantically amending the legislation to each of the Acts, each of the Ordinances as they were before the Constitution, to read Act instead of Ordinance. Similarly, clause 3 does the same in respect of references in any Act to the words "House of Assembly" become references to "the Gibraltar Parliament". Clause 4 deals with references to Financial and Development Secretary. Here, the hon Members will have seen quite a lengthy letter of amendment, most of them are simply errors of cross references and things. I will be pointing these out to them as we go through the Committee Stage. So to assist them in their identification, I will be pointing out each of those amendments as we go on the Committee Stage, since there are so many of them. But many of them are, most of them are correctional in nature in terms of erroneous cross references. In clauses 4, 5, 6, 7 and 8, the Bill has the same structure in respect of amendments. In clause 4 in relation to the Financial and Development Secretary. In clause 5 relating to Attorney General. In clause 6 relating to the deletion of Gibraltar Council. In clause 7 relating to deletions to Deputy Governor and in clause 8, amendments relating to references to Governor. So the Bill is very much in standard format, separate clause for each of those areas. There is a sub-clause that we are deleting, which on reflection breaks the Government's own rule really, that we should not amend primary legislation by secondary legislation. That is, that there was a provision designed to prevent having to come back to the House if suddenly in the future somebody finds that one Act had been overlooked, to avoid the need to have to bring primary legislation every time somebody spots, although there has been a computer trawl through all our legislation and we are confident that we have not overlooked any, a provision was put in giving the Government, through the Chief Minister, the power by notice in the Gazette to add Acts and other subsidiary legislation to the Schedule. In other words, if we come across a reference to Deputy Governor, or a reference to Gibraltar Council, or a reference to Financial

and Development Secretary, in the future, rather than having to bring in a new Act we simply add to the Schedule of this Act. On reflection, we are going to withdraw that proposed provision because it does give, particularly as it does not contain any power for this House to ratify by Resolution, so we will just express confidence in the fact that we have not overlooked any of the legislation. In the unlikely event that such legislation has been overlooked, then the Government will simply have to bring a No. 3 or a No. 4 General Gibraltar Laws Amendment Act. So in each of clauses 4, 5, 6, 7 and 8 I shall be moving at Committee Stage the deletion of sub-clause (2) in each of these, so that the Government cannot by notice in the Gazette, add to the Schedule. The effect of the exercise of that power would have been that, in effect, we could amend primary legislation by notice in the Gazette, and we on reflection, do not think that that is good legislative practice. So the regime in respect of the Financial and Development Secretary is clear. Unlike some of the others, he disappears from the face of our legislation altogether, because the office of Financial and Development Secretary disappears in Constitutional terms. The hon Members will be aware that the Government in its place have created the office of Financial Secretary. In effect, the senior Civil Servant in the Ministry of Finance and he will, indeed, assume many of the powers that are presently held by the Financial and Development Secretary. Hon Members know that at present the incumbent of that office is the previous Accountant General. So what we have done is that we have gone through all the references to the Financial and Development Secretary, and formed the view of whether it is a matter of policy, in which case the power should be held by the Minister for Finance and the Schedule so says. Or whether it is a more administrative financial control matter, in which case the power should continue to be held by the senior officials, now the Financial Secretary rather than the Financial and Development Secretary. So Schedule 1 of the Bill, this is the effect of clause 4, lists the various Acts with the sections. On page 545 of the Bill there are several pages worth, five pages worth of legislation. Column 1 names the legislation, column 2 sets out the number of the section, the provisions in which there is a reference to Financial

and Development Secretary in the present legislation, and column 3, that is to say the right hand column, although they are not numbered, says who the power goes to. So in some cases hon Members will see, for example, the Pawnbrokers Act, the power goes to the Financial Secretary. In the Administrator General Act it goes to the Accountant General. In the Clubs Act some of the powers go to the Financial Secretary, some of them go to the Minister responsible for Finance, and so on and so forth. Clause 5 of the Bill does the same in relation to Attorney General, by virtue of Schedule 2. So Schedule 2 of the Bill lists a series of, two pages worth of Acts in which the powers of the Attorney General in those 14 Acts, go to the Minister responsible for Justice. There are many, many other references in Gibraltar legislation to the Attorney General but those are references in his capacity of offices which he continues to discharge, particularly, the senior law officer in relation to the administration of criminal laws, particularly the prosecutions, the independent prosecution authority under our Constitution. Therefore, those references remain to Attorney General under the legislation. Clause 6 deletes references to Gibraltar Council. Believe it or not, there is still in some of our older legislation references, and indeed some that is not so old, to Gibraltar Council. The Gibraltar Council has been abolished by the Constitution and, therefore, references to it in our primary legislation should be removed. That is what Schedule 3 and clause 6 of the Bill both do. Clause 7 does that also in respect of the Deputy Governor, read in conjunction with Schedule 4. Hon Members know that the Deputy Governor is no longer a constitutional office in Gibraltar governance terms. The Deputy Governor is now just that, the deputy to the Governor and not Deputy Governor in the sense that he used to historically be in the public administration of Gibraltar. There are still 11 old Acts of Parliament in Gibraltar in which there was still a reference to the Deputy Governor doing this and doing that, and that has gone. Mostly, for example, the Post Office Act had a reference in section 35(2) to Deputy Governor, that goes to the Government. Most of these go to the Government, two go to the Chief Secretary, one to the Financial Secretary and two to the Minister with responsibility for Finance. It can be seen again, consideration has been given to

the nature of the power and the recipient has been identified accordingly. Schedule 5 of the Bill, read in conjunction with clause 8 of the Bill, does the same thing in relation to the Governor. Obviously, this is a more delicate issue because the Governor continues to enjoy certain, albeit now much reduced, constitutional powers, so there is a need to go carefully through the legislation to see in which cases the power has been transferred away from the Governor to somebody else, usually the Government or a Minister, under the new Constitution and in what cases of legislation, even after the new Constitution the correct domicile, if I can call it that, location of the power continues to be His Excellency the Governor. There are, obviously, this is the largest area because there are many hundreds of references to Governor in Gibraltar's legislation. Indeed, some of it redundantly so because many of the references to Governor in Gibraltar's existing legislation had always meant Government, at least over the last couple of decades has always meant Government. So, in a sense, there are two types of things that are being changed. Things where it used to say Governor and meant Governor, and now means usually Minister; and then there is a second category, things that used to say Governor have in effect meant Minister or Government for some time, and are now formally changing on the face of the legislation to reflect Minister. Then there is the third category in which Governor should remain Governor and, obviously, there is a need to go carefully through each Act in order to see whether it is an area in which the power should be left with the Governor, or the correct interpretation of the new Constitution, is that it should now go to the appropriate Minister of the elected Government, or perhaps to the Government as a whole collectively through the use of the term "Government". As I say, there are a number of amendments, some relate to erroneous cross references, others relate to legislation that has been included in this No. 1 Act which should not have been. It had been in a pile to be dealt with in the No. 2 Act, but I will mention those as we go through the Schedules so that the hon Members can know which they are, in Committee Stage. Clause 9 of the Bill I should just finish by saying, just creates some general other amendments, repeals and interpretation. It

really is just mechanical and logistical things to the proper implementation of the substantive provisions which are the ones that I have just described. Therefore, this is in effect the manifestation or, in part, the manifestation of the new Constitution in relation to the effect it has on the face, the look, the provisions, the content of the whole body of Gibraltar Statutory laws. I therefore commend the Bill to the House, subject to the amendments that I shall be moving at Committee Stage and of which I have given notice in writing this morning.

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

HON J J BOSSANO:

There is only one point that I would like the Chief Minister to address in his reply. That is, I do not know whether the Gibraltar Savings Bank is included or is due to be included, or that there is no need for it, but there were a number of references in the Savings Bank originally. Therefore, I would like to know whether it is that the latest version of the Savings Bank Act no longer has Financial and Development Secretary and Secretary of State and so on, or whether that is one in the 5 per cent that still have to be dealt with?

HON CHIEF MINISTER:

I cannot from memory recall, but certainly, I think I am answering the hon Member's point if I respond in this way. The Savings Bank is part of the public finances of Gibraltar and, therefore, clearly transferred to the purview of the Gibraltar Government. If it is not included in this Bill it is either because it no longer says "Governor", I do not remember if we got round to amending that in the past, but if it has not and it is not in this Schedule, then it will be in the No. 2 Act. In other words, this is not one of the ones in which control, the references in the

Despatch to financial stability, which were thought to justify all manner of retentions of power, of course is no longer around.

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.

Question put. Agreed to.

THE NATURE PROTECTION (AMENDMENT) ACT 2007

HON J J NETTO:

I have the honour to move that a Bill for an Act to further transpose Directive 74/409/EEC on the conservation of wild birds and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora; and for connected purposes, 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, in 1995 the Nature Protection Ordinance 1991 was amended to accommodate the transposition of Directive 92/43/EEC and Directive 79/409/EEC, also known as

the Habitats and the Wild Birds Directive, respectively. By all accounts transposition of these Directives in the Nature Protection Ordinance largely followed the UK's own transposition of these Directives. Such implementation of these Directives, the Commission was initiating a number of infraction proceedings, possibly as a result of on-going investigations of the effects of the application of these Directives together with advances in scientific knowledge and techniques, and the interpretation of the Directives by the European Court of Justice. Even at this moment in time, the Commission is finalising a guidance document on the application of Article 12 of the Habitats Directive, some 15 years after the Directive came into being. The principal amendments contained in this Bill arise from a judgement of the European Court of Justice in Case C6/04 Commission of European Communities –v- United Kingdom, where the Court held that aspects of the Habitats Directive were either incorrectly or not transposed. In addition to further transpose, the Bill seeks to achieve an element of housekeeping. For instance, in clause 2(c) superfluous words are deleted. That is, the word “charge” under section 48 of the Constitution in relation to the definition of “Minister”. I now turn to the substantive amendments contained in the Bill. Clause 6 inserts section 17PA and provides for action to be taken where a designated site is deteriorating in a number that adversely affects the conservation objectives for that site. Clause 7 inserts section 17RA, which is a new requirement that provides for the surveillance of the conservation status of certain habitats and priority species. Clauses 8, 9 and 12 re-cast with amendments, existing sections 17T, 17U and 17X, to bring these into line with the judgement. Clause 11 inserts section 17BA which is a new requirement, and provides for the monitoring of the incidental capture and killing of certain species, those listed in Annex 4A. Clause 16 inserts a new Part 2B, comprised of section 17EE and 17HH, and relates to land use plans. This part, in general terms, sets out the tests that a land use plan must be subjected to, in order that its potential impact on a protected site can be ascertained and, where appropriate, compensatory measures implemented. Clause 21 inserts a consolidated Habitats Directive as amended following

the various ways of accession to the EU under Schedule 5, and should be of assistance as a reference tool. Clause 23 inserts Schedule 9, which at the time of the Bill being published was a blank table. In the intervening period, the necessary scientific data has been obtained and I have given notice of an amendment at Committee Stage, where I will be seeking to populate the table with the appropriate bird species. 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.

COMMITTEE STAGE

HON CHIEF MINISTER:

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

1. The Exchange Control (Repeal) Bill 2007;
2. The Auditors Approval and Registration (Amendment) Bill 2007;
3. The Cooperative Societies (SCE) Bill 2007;

4. The Financial Services (Temporary Business Continuity) Bill 2007;
5. The Nature Protection (Amendment) Bill 2007.

THE EXCHANGE CONTROL (REPEAL) BILL 2007

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

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

THE AUDITORS APPROVAL AND REGISTRATION (AMENDMENT) BILL 2007

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

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

THE COOPERATIVE SOCIETIES (SCE) BILL 2007

Clauses 1 to 19 – were agreed to and stood part of the Bill.

Schedule – was agreed to and stood part of the Bill.

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

THE FINANCIAL SERVICES (TEMPORARY BUSINESS CONTINUITY) BILL 2007

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

Clause 2

HON CHIEF MINISTER:

In clause 2, in the definition of the word “regulator”, there is a reference in the last line to the “Financial Services Act 1989”, that should read “Financial Services (Investment and Fiduciary Services) Act 1989”. In clause 2, in the definition of “exempted operations” delete the word “and” which erroneously appears after the semi-colon at the end of paragraph (a).

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

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

Clause 4

HON CHIEF MINISTER:

Again, in sub-clause (3) of clause 4 there is a reference to “Financial Services Act 1989” which should be a reference to “Financial Services (Investment and Fiduciary Services) Act 1989”. Hon Members will recall that we changed the name of that legislation some weeks ago.

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

Clauses 5 to 8 – were agreed to and stood part of the Bill.

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

THE NATURE PROTECTION (AMENDMENT) BILL 2007

Clause 1

HON J J NETTO:

In the letter I have circulated for further amendment, in clause 1 for the words “on the day of publication”, substitute “on such day as may be appointed by the Minister with responsibility for the Environment by notice in the Gazette and different days may be so appointed for different purposes.”

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

Clause 2

HON J J NETTO:

Again, after clause 2(b) insert the following:

“(bb) for the definition of “Nature Conservancy Council” substitute ““Nature Conservancy Council” means such Nature Conservancy Council as may be established under section 20, as a scientific authority and as the Minister may specify as the Nature Conservancy Council for the purposes of this Act;”;

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

Clauses 3 and 4 – were agreed to and stood part of the Bill.

Clause 5

HON J J NETTO:

In clause 5, delete sub-clause 5(a) and re-letter sub-clauses (b) to (d) accordingly.

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

Clause 6

HON J J NETTO:

In clause 6, at the end of section 17PA(1), insert the words “in so far as such deterioration could be significant in relation to the objectives of the Habitats Directive” after the word “deterioration”, at the end of the section.

Clause 6, as amended, was agreed to and stood part of the Bill.

Clauses 7 to 15 – were agreed to and stood part of the Bill.

Clause 16

HON J J NETTO:

In clause 16, in section 17GG(5), for “Minister” substitute “Government”.

Clause 16, as amended, was agreed to and stood part of the Bill.

Clause 17 – was agreed to and stood part of the Bill.

After Clause 17

HON J J NETTO:

After clause 17 insert 17A:-

“17A. For section 20 substitute –

“Scientific Authorities.

20.(1) The Minister may by Regulations establish any body or bodies for the purposes of advising the Government in relation to any matter including but not limited to –

- a. the environment;
- b. terrestrial and aquatic flora and fauna;
- c. the exploitation (whether commercial or otherwise) of the matters referred to in paragraphs (a) and (b).

(2) A body established under subsection (1) shall perform such duties as may be prescribed by regulations made thereunder.

(3)A reference in this Act to a scientific authority is a reference to a body which is established under subsection (1).”

New Clause 17A was agreed to and stood part of the Bill.

Clauses 18 to 22 – were agreed to and stood part of the Bill.

Clause 23

HON J J NETTO:

In clause 23 under the appropriate headings in the table in Schedule 9, insert:

“Eagle Owl	<i>Bubo bubo</i>
Lesser Kestrel	<i>Falco naumanni</i>
Shag	<i>Phalacrocorax aristotelis desmarestii</i> ”

Clause 23, 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 CHIEF MINISTER:

I have the honour to report that:

The Exchange Control (Repeal) Bill 2007;

The Auditors Approval and Registration (Amendment) Bill 2007;

The Cooperative Societies (SCE) Bill 2007;

The Financial Services (Temporary Business Continuity) Bill 2007, with amendments;

The Nature Protection (Amendment) Bill 2007, with amendments

have been considered in Committee and agreed to, in some cases with amendments, and I now move that all Bills, together with the Civil Contingencies Bill 2007, be read a third time and passed.

Question put.

The Civil Contingencies Bill 2007;

The Exchange Control (Repeal) Bill 2007;

The Auditors Approval and Registration (Amendment) Bill 2007;

The Cooperative Societies (SCE) Bill 2007;

The Financial Services (Temporary Business Continuity) Bill 2007;

The Nature Protection (Amendment) Bill 2007

were agreed to and read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 31st May 2007 at 2.30 p.m.

Question put. Agreed to.

The adjournment of the House was taken at 11.23 a.m. on Monday 16th April 2007.

THURSDAY 31ST MAY 2007

The House resumed at 2.35 p.m.

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 Miss M I Montegriffo

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

SUSPENSION OF STANDING ORDERS

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of a statement and accounts on the Table.

Question put.

Agreed to.

DOCUMENTS LAID

HON CHIEF MINISTER:

I have the honour to lay on the Table:-

1. The Annual Accounts of the Government of Gibraltar for the year ended 31st March 2006;
2. The Statement of Supplementary Estimates No. 1 of 2006/2007;
3. The Report and Audited Accounts of the Gibraltar Bus Company Ltd for the year ended 31st March 2006;

4. The Report and Audited Accounts of Gibraltar Community Projects Ltd for the year ended 31st March 2006.

Ordered to lie.

MR SPEAKER:

I have the honour to report that in accordance with Standing Order 12(3) the Report of the Principal Auditor on the Annual Accounts of the Government of Gibraltar for the year ended 31st March 2006, and the Ombudsman's Annual Report for the year ended 31st December 2006, together with the Annexe thereto, have been submitted to Parliament and I now rule that they have been laid on the Table.

BILLS

FIRST AND SECOND READINGS

THE SUPPLEMENTARY APPROPRIATION (2006/2007) ACT 2007.

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to appropriate further sums of money to the service of the year ending on the 31st day of March 2007, 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, just to record for the sake of posterity, and for no other purpose, that following the new Constitution this is the first time that an Elected Member of this House moves a finance Bill in this House, following the new Constitution which transfers the Financial and Development Secretary's formal powers under the laws and the Constitution to an Elected Minister in the form of a Minister of Finance, and it gives me great pleasure and honour to do so. Mr Speaker, it is a Supplementary Appropriation Bill and there is little that I can add during this Second Reading to what is in the Explanatory Memorandum of the Bill but for the purposes of Hansard I will take the House over it. In terms of the £2.7 million that is required for the recurrent Consolidated Fund expenditure, around an estimated £900,000 is to finance an increase in the contribution to the Gibraltar Electricity Authority, mainly due to an increase in fuel costs. An estimated £1.6 million is required to finance an increase in the contribution to the Gibraltar Health Authority, mainly due to an increase in payroll related costs and additional expenditure in prescribed drugs and pharmaceutical dressings, medical gases and tests. An estimated £200,000 has been included as an additional supplementary provision to cover an increase in expenditure by various Government departments. In terms of the supplementary vote that the Bill seeks from the Reserve, that is to say for non-recurrent expenditure for financing the expenditure of the Improvement and Development Fund, the hon Members will see, assuming, which I should not, that they have had the opportunity even to glaze over the statement of supplementary that I have just Tabled when I was laying papers, they will see a footnote on the second page of the Statement of Supplementary Estimates No. 1, which explains subsequent to the publication of this Bill that the forecast outturn has been revised to £14 million following an increase in capital received during March 2007. The supplementary provision

required has therefore been reduced from £12 million to £9 million. In other words, this supplementary is required to make up, not for additional expenditure, but to make up the funding source of the Improvement and Development Fund which, as the Bill is printed, was scheduled to have received £12 million less than had been estimated from other sources, namely, sale of Government properties and things of that sort. Therefore, the money had to be replaced from the reserves. In fact, there has been £3 million more capital receipts than had been thought at the time that the Bill was published and therefore the amount of shortfall of funding of the Improvement and Development Fund is £9 million. Therefore, I propose to move an amendment to the Bill, not seeking £12 million but £9 million, which post-publication of the Bill some weeks ago, is now found to be necessary. So at Committee Stage I will be moving the amendment that should read, "the further sum not exceeding £9 million" as opposed to "£12 million". Of course, I repeat that this is not £9 million of extra expenditure. This is £9 million worth of approved expenditure that was going to be financed from the proceeds of sale of Government properties, which have not materialised during the financial year in the amount that had been anticipated when we debated last year's Budget at the start of the year, therefore the funding source has been replaced. Instead of being funded from sale of Government properties it is now going to be funded by this £9 million contribution. I say this because I did see a report in the press which suggested that it had been interpreted, not by Opposition Members but by the newspaper in question, to be a request for money for additional expenditure. This part of it is not additional expenditure. The third part of it is an additional £2 million and this is for additional expenditure in the Improvement and Development Fund by the Gibraltar Health Authority in their own expenditure and the details will be set out in Appendix G when we are able to debate the Estimates Book a little bit later. I think it is not a bad performance out of a total estimated expenditure of £188 million at the start of this financial year, that is what we estimated would be the Departmental Recurrent Expenditure. In effect that has been exceeded by £2.7 million and if the hon Members who by now will have seen the Estimates Book, which

is not yet in the public domain and therefore I cannot refer to directly, they will see that not even this is a matter of additional expenditure. This is the problem of not being able to vire from one source to the other. So if the hon Members look in their Estimates Books at the forecast outturn, they will see that actually the forecast outturn would not require this supplementary expenditure of £2.7 million. This supplementary appropriation of £2.7 million would not be required were it not for the virement rules that one cannot necessarily set off savings in one area with excess expenditure in another. But that is something that we can discuss later when the House meets. So, subject to that notice of amendment that I have given, there is no point in my asking the House for permission to spend £3 million more than we now know. This is two months ago, the financial year closed two months ago so it is now known what the shortfall of sale proceeds has been and we can limit the Supplementary Appropriation to the required amount of £9 million. 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 later today.

Question put. Agreed to.

THE IMPORTS AND EXPORTS (AMENDMENT) ACT 2007.

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Imports and Exports Act 1986, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill now before the House is a short one amending sections 76, 77 and 78 of the Imports and Exports Act 1986. The intention being to bring them into line with the flexibility contained in section 75 of that existing Act. Section 75 enables the Minister to make exceptions to the principles set out in that section. Thus regulations can be made for instances where goods may be imported without duty being paid or the necessary form having been filled in. This right is created by the introductory words "save in such cases as may be prescribed". For some reason, however, the drafters of the Act never included such flexibility in the next three sections. Thus there is no way the Minister can waive the requirement of the regime in respect of importation of goods by post (section 76), nor the deposit or removal of goods from an approved place or from a transit shed (section 77), or the deposit or removal of goods from a private bonded store (section 78), without the amendment that we are now considering in the Act. In other words, section 75 which is the principal duty imposing and customs control section, as the 1986 Act stands says, "save in such cases as may be prescribed no person shall deliver or remove any goods from Waterport, the North Mole, Four Corners" et cetera. Yet the next three sections which deal with

the same regime but in respect of removing of goods from the Post Office, for example, does not have the same prefix “save in such cases as may be prescribed”. So, therefore, this amendment brings the much less important three sections that follow section 75 into line with the principal section that creates the principal regime in section 75, by being preceded by the words “save in such cases as may be prescribed”. I commend this short 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 this Bill be taken later today.

Question put. Agreed to.

THE INTERNATIONAL CRIMINAL COURT ACT 2007.

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to give effect to the Statute of the International Criminal Court (“ICC Statute”); to provide for offences under the law of Gibraltar corresponding to offences within the jurisdiction of the International Criminal Court (ICC); 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, the purpose of this Bill is to give effect in Gibraltar law to the provisions of the Statute of the International Criminal Court done at Rome on 17th July 1998, otherwise known as the Rome Statute. The Bill creates domestic offences and associated penalties for International Criminal Court crimes of genocide, crimes against humanity and war crimes. It enables assistance to be given to the International Criminal Court by permitting the arrest and surrender of persons requested by the Court. It also provides for the freezing of assets and enforcements of International Criminal Court orders for fines or forfeiture of such assets to the Court, and other forms of practical assistance in the investigation of International Criminal Court offences. It also provides for sittings of the Court in Gibraltar and for related technical matters. Before going into the detail of the Bill, the hon Members may be interested in knowing some of the background of this Institution and recalling that unlike previous War Trials Tribunals, such as Nuremberg, Tokyo, the former Yugoslavia and Rwanda. This is the first court to be established on a permanent, international basis and will be the first to be in existence before a conflict breaks out. This permanency should ensure a pro-active rather than a reactive response to international atrocities in the future. The establishment of the recent tribunal to deal with massive human rights violations in Rwanda and the former Yugoslavia, revived the international momentum for establishing a permanent, independent, International Criminal Court. The establishment of the Court can be traced back to 1948 and the adoption of the Convention on the prevention and punishment of the crime of genocide, on foot of request from the UN General Assembly for the establishment of an International Court. At that time, the International Law Commission was given the task of considering the establishment of that International Criminal Court. The Court, which has its seat in the Hague, is composed of four

organs, the presidency, consisting of a president and two vice-presidents, who are responsible for the administration of the Court; the divisions or chambers of the Court, comprising pre-trial, trial and appeal divisions; the independent office of the prosecutor and the registry, with responsibility for non-judicial administration of the Court. Thus the four elements, the four organs, are the presidency, the divisions, the office of the independent prosecutor and the registry office. Since their appointment the various organs of the Court have each been active in recruiting staff, drafting regulations and formulating policies to inform their work in readiness for the Court's first cases. The Court is already operational in that it has received its first two referrals from State parties. The first relates to an incident in Northern Uganda and the second is from the Democratic Republic of Congo, concerning an alleged incident in Ituri. The prosecutor is considering whether to initiate formal investigations which, in turn, could lead to the Court's first case. The Statute does more than establish a permanent court, it represents a system of negotiated compromise between the States parties and it is, therefore, a complex, international Statute, given the care that certain countries traditionally take and, indeed, the political hostility that exists in certain countries to the very concept of an established International Court. The ICC, as it is called, brings a new sense of individual criminal responsibility to international crimes. Its jurisdiction extends to offences committed by nationals of State parties, or committed in the territory of State parties and non-State parties, which have consented to the Court having a role. This individual responsibility is extended to ensure that diplomatic immunity attaching to a person because of a connection with a State party, is not a bar to proceedings against the person. In other words, one cannot plead diplomatic immunity. The Court will also have jurisdiction over crimes committed in situations anywhere in the world referred to it by the United Nations Security Council. In addition to prosecuting the perpetrators of crimes, the Court may also prosecute those in authority who order crimes to be committed, including Heads of State and Government officials. This formulation is designed to ensure that those holding State positions who orchestrate attacks on

humanity cannot hide behind their office so as to evade prosecution. Apart from these specific ICC provisions, the Supreme Court of Gibraltar may also apply domestic criminal law principles when considering ICC offences. The Court may also take into account the rules of procedure and evidence, the elements of crime and any relevant judgement or decision of the ICC, together with the preparatory background work in drafting the Statute and the published views of commentators on the operation of the Statute. Individual criminal responsibility is grounded on the principle of complementarity of the Rome Statute. The ICC is not a substitute for national criminal justice systems in that it will only take on an investigation where a State is unwilling or unable genuinely to carry out the investigation or prosecution. Such, it is an institution to encourage states to prosecute such international crimes, rather than seek to diminish states' domestic judicial authority. Under Article 14 of the Statute, any state party can refer a crime to the prosecutor and no state party has a veto over prosecution. However, it is more than just a court for the virtuous since, as previously noted, the ICC may consider offences wherever committed if referred by the United Nations Security Council. A specific domestic legislative provision is not required to give effect to this principle of complementarity. It is, however, enshrined in the preamble of the Statute which also recognises that it is the duty of every state to exercise its criminal jurisdiction over those responsible for these grave crimes, which threaten the peace, security and well-being of the international community. The Bill itself, in terms of the substantive provisions, contains the sort of principles that would not be unfamiliar to lawyers dealing in this area. It does not re-invent the wheel, it is simply extending to assisting the International Criminal Court in the sorts of ways that our laws already recognise, in principle at least, to assist the courts of any other country under mutual legal assistance provisions. So, hon Members will see from the Bill, the first part of it, as always, deals with definitions. Part 2 of the Bill deals specifically with issues to do with a legal capacity, state or diplomatic immunities of the ICC, and it creates this regime for avoidance of the pleading of diplomatic immunity. It also deals with formal issues such as the affixing of the seal, in other

words, how the ICC's orders are recognisable in the rest of the world, their form, who they are signed by, how they are sealed and that sort of thing. Then there is a general provision there relating to the admissibility of evidence, to ensure that local national rules about the admissibility of evidence cannot be pleaded, it is sufficient that the rules of evidence of the ICC were observed. Part 3 then brings us into the realms of the assistance giving modalities, if I can call them that, established by this piece of legislation. Hon Members will see the regime that is created there, the first one is the issue of arrest and delivery of persons. In other words, how can Gibraltar help if somebody wanted by the ICC, this International Criminal Court, were to be physically in Gibraltar? Unlikely but not impossible. There is a situation where the ICC issues an arrest warrant, it is received in Gibraltar by the Minister with responsibility for justice, who is the international gateway, and he passes it in turn to the Attorney General that is then responsible for obtaining all the necessary orders, in and out from the Supreme Court of Gibraltar, to secure the arrest of the person who is in Gibraltar and wanted by the International Criminal Court. Then that person is surrendered once the Court has made a surrender and a delivery order, that person can then be surrendered by the Gibraltar authorities to the custody of the International Criminal Court, or they can be held in Gibraltar pending that surrender. The person can consent to be surrendered to the International Criminal Court which means that the need for these delivery up and surrender proceedings is obviated where the person concerned consents. Then, of course, there are provisions there as one would expect, to enable the Gibraltar Court on hearing the merits to refuse to order delivery and arrest and there are proceedings in section 13 allowing the parties to appeal. There are provisions in section 15, even after the Court has made a delivery order, the Minister shall not give directions for the execution of a delivery order until after the end of the period of 15 days, beginning with the date on which the order is made. So in other words, there is a 15 day cooling off period after the order is made unless the subject of the order has waived his rights. That period is to give the person in question a further opportunity to make an application for habeas corpus in

order to secure his release. As I said, the effect of the delivery order in section 18 is that once a delivery order has been made and is final and not subject to any more appeals or judicial processes, in other words, all the possibilities for the reversal of the delivery order have been exhausted, any person acting in accordance with the directions of the Minister can make arrangements for the person to be delivered up to the custody of the ICC, in accordance with arrangements to be made under section 53. That is to say, in cooperation with and in liaison with the ICC. Section 19 provides for bail and custody, just like any other accused person, whilst the Gibraltar bit of the proceedings take place. Section 22 provides for the fact that Gibraltar can give permission for somebody who has gone through this process in another state to transit through Gibraltar. Let us say, for example, the ICC has required Spain or Morocco to hand somebody up and the quickest way of getting him to the ICC is via Gibraltar, when the person comes to Gibraltar the person cannot say, "ah, now you are sending me to the ICC from Gibraltar. Now I want to start the whole proceeding in Gibraltar again". In other words, these are transit provisions through Gibraltar once a process under equivalent legislation have been gone through elsewhere. There are provisions there also for unscheduled landings which say that if a person being surrendered by another state makes an unscheduled landing in Gibraltar, he may be arrested by any police officer and shall be brought before the court as soon as is practicable. There are provisions in section 24 for what happens when the ICC request the handing over of a person who is already subject to criminal proceedings in Gibraltar. The person is already being prosecuted in Gibraltar for something and before that court case finishes the ICC says, we would like that person because we need to try him for one of his very serious crimes in the ICC, and there the provisions are that the Attorney General may direct that criminal proceedings in Gibraltar be discontinued in the context of the person being delivered up to the ICC. There are similar provisions as to what happens if somebody who is requested by the ICC is pending extradition proceedings. In other words, the principle is that the Attorney General may direct or it may be directed that extradition proceedings can be

discontinued in order for the request of the ICC to take precedence. Then Part 4 of the Bill deals with other forms of assistance, other than just arrest, delivery up of the person, there are other provisions and other forms of assistance. Hon Members can see what they are in Part 4, starting from section 29, there are provisions for people being questioned at the request of the ICC and the information produced up to the ICC, for taking or production of evidence of people who might be witnesses. These will be familiar to the hon Members, the sort of things that we can do almost at the request of any country asking for Gibraltar's assistance in judicial matters. We can serve process on behalf of the ICC; we can transfer prisoners to give evidence or assist in the investigation; we can exercise powers of entry, search and seizure, we can take, when I say "we" I do not mean the Government, I mean Gibraltar as a whole, all of this requires court orders by the courts of Gibraltar, entry, search and seizure; fingerprints or other non-intimate samples for the purposes of identifying people for the ICC; and we can provide information from our own criminal records; we can investigate the proceeds of ICC crimes; we can have recourse to production of access orders, the whole range of mechanisms that are usually available for Gibraltar's authorities to assist the courts of other countries when they ask for our legal assistance, search warrants, freezing orders, in terms of assets, we can appoint receivers to assets; we can seize assets to prevent their removal from the jurisdiction; we can put companies into winding-up and so on and so forth. Sections 52 and 53, as I indicated earlier, provide for the mechanism by which people, evidence, seized assets et cetera, are physically sent to the International Criminal Court. Part 5 is the part that deals with the enforcement of sentences and orders, so we are past the pre-trial assistance stage now. Now there has been a sentence already, what happens? Section 54 provides, obviously the International Criminal Court is not a country, it therefore does not have prisons, it does not have the infrastructure of a state and, therefore, there have to be provisions for where people are imprisoned. Section 54 provides that if Gibraltar is designated by the ICC as a territory of the state of enforcement in which a person is to serve a

sentence of imprisonment imposed by it, then all these provisions apply and the imprisonment of that person is lawful in Gibraltar. Normally, imprisonment in Gibraltar is only lawful when one has been sentenced by a court in Gibraltar. Here it is extending the sentencing. If one is sentenced by the International Criminal Court, Gibraltar can be designated as one's place of custody without having to be convicted and sentenced by a domestic court. Part 6 deals with what are called International Criminal Court offences. These are a series of offences which the Statute creates. Hon Members can see what they are, they are the ones that they would expect to find there, genocide, crimes against humanity, war crimes and all the contracting parties agreed to ensure that their national legislation would make these things criminal offences. One must not assume that every country has an offence known as a war crime, or every country has a criminal offence known as a crime against humanity. This section does that, so hon Members will see, for example, that section 59 says, "where a person commits genocide, a crime against humanity or a war crime" and the definitions of those crimes are the ones in the role of statute, "that person commits an offence against the law of Gibraltar". Then in section 60 it is an offence for a person to engage in conduct ancillary to an act to which this section applies. So hon Members will see that we are creating offences in Gibraltar which are new criminal offences, in the sense that the criminal offence of genocide, a crime against humanity or a war crime is now an offence against our national criminal law. Section 62 is offences against the ICC. For example, offences against the administration of justice, contempt, things of that sort. In other words, circumstances in which in Gibraltar one would have been able to bring offences against the administration of justice, perverting the course of justice et cetera. Those are extended to the International Criminal Court. Section 65 is an interesting provision. Historically, somebody could always plead superior order saying I was ordered to do this. This section deals with the responsibility of commanders and other superiors. It says "this section applies in relation to offences under this Part and offences ancillary to offences under this Part", and the main provision is that a military commander or

a person effectively acting as a military commander, is responsible for offences committed by forces under his effective command and control, or his effective authority and control as a result of his failure to exercise control over such forces where he “(a) either knew or owing to the circumstances at the time, should have known that the forces were committing or about to commit such offences; and (b) failed to take all necessary and reasonable measures within his power to prevent or repress their commission, or to submit the matter to the competent authorities for investigation and prosecution”. “With respect to superior and subordinate relationships not described in subsection (2), a superior is responsible for offences committed by subordinates under his effective authority and control as a result of his failure to exercise properly control over such subordinates where”, and then it is (a) and (b), “he either knew or conscientiously disregarded information which clearly indicated that the subordinates were committing or about to commit such offences;” “the offences concerned activities which were within his effective responsibility and control” and he failed to prevent it or submit it for investigation. Then there are the usual inchoate offences there, one can be responsible under this section for aiding, abetting, counselling or procuring the offences. Section 66 creates the mental element for the offences of genocide, a crime against humanity, a war crime or an offence against the administration of justice. There then follow provisions regarding extradition, extradition to trial by the International Criminal Court is not to be regarded as an act of a political character. So one cannot say, do not send me because these are political offences. In other words, the International Criminal Court is deemed to be independent and therefore not in need to be made subject to those principles. Section 72 creates the usual extensive regulation-making powers. Schedule 1 sets out the rights of persons during the investigation. These are rights that are given to accused or wanted people under Article 55 of the Rome Convention. Schedule 2 contains the definitions of the offences of genocide, crimes against humanity, war crimes and the crimes against the administration. They are there, I will not take the House through them, it is the sort of definition that one would expect. Genocide means any of the

following acts committed with the intent to destroy in whole or in part a national, ethnic or racial or religious group, such as killing members of the group, causing serious mental or bodily harm to members of the group, et cetera. Crimes against humanity means, for the purposes of this Statute, any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack, murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty, torture, rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation or any other form of sexual violence of comparable gravity, persecution against any identifiable group or collective on political, racial, national, ethnic, cultural, religious or gender grounds, forced disappearance of persons, the crime of apartheid or other inhuman acts of a similar character, intentionally causing great suffering or serious injury to body or to mental health. So any of those when done as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack will, in addition to being offences in their own right, will also constitute a crime against humanity. The definition of war crimes is grave breaches of the Geneva Convention, involving wilful killing, torture or inhuman treatment, wilfully causing great suffering et cetera, and there is a long list there of things that constitute a war crime. Schedule 3 sets out the offences against the ICC itself. That is to say, offences against the administration of justice by the ICC. Schedule 4 sets out the detail of the responsibility of commanders and other superiors. Schedule 5 sets out the mental element that is required for an ICC offence. Schedule 6 sets out the particular rules of procedure and evidence that are to apply. Schedule 7 sets out the language of the provisional arrest warrant. This legislation, hon Members will already have realised, is to create an international, harmonised regime of support for the concept of this central International Criminal Court, to bring people to justice for the gravest of crimes against humanity, war crimes and things of that sort. The House, therefore, will wish, I am sure, to support this measure. I have given notice by letter dated today of a number of not hugely significant amendments, which I will take

the hon Members through one at a time during Committee Stage, but none of them affect the principles of the Bill or anything that I have said. I commend the Bill to the House.

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

HON F R PICARDO:

Only a few very minor points arise in terms of general principles. I think it is important, in terms of the history of the Court, to add also one thing which the Chief Minister has not alluded to which is that, unfortunately, the United States of America has not ratified the International Criminal Court Treaty and that it is encouraged to do so by the United Kingdom repeatedly and by other states. Of course, until the United States ratifies the Court's Treaty, many take the view that it will not be as effective a piece of international legislation as it could be. Section 23 of the Bill provides what happens when an individual who is being transported to the International Criminal Court makes an unscheduled landing in Gibraltar. In other words, when for example a flight taking the individual to the Hague needs to be diverted to Gibraltar for any reason, or any other mode of transport alights in Gibraltar and the individual is found here. The provisions there, which I think we have seen before in terms of mutual legal assistance, suggest that the individual may be arrested and the Bill is full, as is to be expected, of mayes and shalls. An individual may be arrested by a police officer but he shall be brought before a court as soon as practicable. I just want to have some clarification of whether my interpretation is correct and that an individual who arrives in Gibraltar in transit to the ICC on an unscheduled landing must be brought before a court, whether or not he is arrested, so that the provisions of subsections (2) and (3) kick in. I think that is the case otherwise the Minister would have no control over individuals in Gibraltar on an unscheduled call. Finally, clause 71, which is the clause on Crown application, states that the Act binds the Crown. I am going to make a point which I think perhaps is unnecessary but I

think it is proper to make it in the context of this debate, that this Parliament makes laws and binds the Crown in right of the Government of Gibraltar and not the Crown in right of the Government of the United Kingdom. Therefore, the persons in the public service of the Crown referred to there must be persons in the public service of the Crown in right of the Government of Gibraltar. If I am wrong perhaps the Chief Minister can clarify that. I think it does go to the general principles because it would certainly change the individuals that we are considering should be governed by this piece of legislation if we are legislating for the Crown not just in right of the Government of Gibraltar.

HON CHIEF MINISTER:

Well, taking the points in the order that the hon Member has made them, he is absolutely right in relation to the fact that USA has not ratified. Whether the consequences will be as grave as he says if the USA does not depends, I suppose, on what side of the pro or anti USA global debate one sits. The hon Member knows the reason why the USA will not ratify this. It is concerned that it will be used for the submission to trial, perhaps, of its troops that are engaged in various international conflicts and it takes the view that it is not willing to allow its troops and its commanders, or even its political leaders, to be subjected to an ICC prosecutor on an international warrant to be brought before an international court. It is not for me to stray into that debate. Suffice it to say that other countries with similar values have ratified and submitted, it is a matter for the US but it is not in the area of crimes, it is in the area of war crimes that they are concerned. In the case of section 23, it is not compulsory to arrest a person who makes an unscheduled landing in Gibraltar, he does not necessarily have to be arrested. Just as somebody who is in transit. I wonder if the House will just allow me a moment. I have to say that the logical comparison between the unscheduled landing regime shown in section 23 and the regime in section 22 where there is a request for transit, in section 22 arrest is mandatory where the Minister

receives a request from the ICC for the transit of a person being surrendered by a state and the Minister accedes to the request, that request shall be treated and therefore the arrest is only if the Gibraltar authorities and the Minister for Justice accede to the request. It is not mandatory to allow Gibraltar to be used for transit. If somebody arrives in Gibraltar unscheduled, it is not mandatory either because the Minister, the Government, the authorities still have..... The issue is whether the arrest should be automatic until that judgement is exercised.

HON F R PICARDO:

That is not the point I was getting at, with respect. I accept the request should not be mandatory in that context and that there should be leeway. For example, the individual may be in Gibraltar on an unscheduled transit because of a diversion, but he may already be under the control if not the custody of the officers of the state from which he is coming. So there is no concern that he is going to run off, he is not going to get away from the ICC. But my concern is this, does he still have to be brought to the court in Gibraltar? My reading of the section as it is at the moment is that the "shall" does not necessarily relate only to instances where the police officers have decided that they think it proper to arrest him, or the Minister for Justice has decided it proper to direct that he be arrested. It appears that somebody on an unscheduled call in Gibraltar must be brought before a court whether or not he is arrested. If that is not the case, let us make that clear so that that does not have to occur if, for example, an aircraft needs to refuel at the airport.

HON CHIEF MINISTER:

Well, I tend to agree with the hon Member that a lot is taken for granted there. In other words, I think the draftsman thinks that obviously one must not be taken before the court unless one has been arrested. One cannot be taken before the court if one has not been arrested, because taking one before the court

necessarily requires one to be arrested. But I agree that it would have been clearer if it were to be read, "he may be arrested by any officer and if arrested shall be brought before the court as soon as practicable".

HON F R PICARDO:

Can we move that amendment?

HON CHIEF MINISTER:

I think the hon Member can move that amendment, it is just making it clear. I am advised that it is already clear, I do not think it is clear, I think it is clear logically but not semantically clear. It is not semantically clear, but yes, I think that is an amendment that would serve by inserting after the word "and" the words "and if so arrested". Then his third point was whether when we pass legislation in this House binding the Crown, we are only binding the Crown qua Government of Gibraltar. The answer is no. When this House passes legislation to bind the Crown it is insofar as the laws of Gibraltar may be relevant binding all divisions of the Crown. That is true for the purpose of the Crown Proceedings Act, for example. No, not for the Crown Proceedings Act because that is specific, but for example, in the Contracts Act or this or that where one sues the Ministry of Defence and one can sue others. Crown means Crown in all. Now the laws of Gibraltar may not be relevant because they do not reach certain bits of the Crown but, certainly, if there is anybody in Gibraltar whether it is a Gibraltar Government officer or a UK Government officer, who is in Gibraltar and is wanted by the ICC then that person is amenable to this Act whether he is an officer of the Crown qua Government of Gibraltar or qua UK Government or anything else. Of course, then there are other provisions in this Act which means that the assistance can be denied in the interests of national security, but subject only to that.....

HON F R PICARDO:

If the Chief Minister would give way I will try and clarify that point further. An individual who is the employee of another of the divisions of the Crown, when in Gibraltar would be amendable, certainly in my view, as an individual covered by the provisions of this legislation. My view is that he would not necessarily be covered by the provisions of this section of the legislation. This section, section 71 which is the one we are debating, I think we should clarify is employees of the Crown of the Government of Gibraltar. If the employee of the Crown in right of the Government of Canada or the United Kingdom is in Gibraltar and he is wanted and the Minister accedes to his extradition to the ICC, then he is an individual in Gibraltar subject to the provisions of this legislation. He goes because he goes, not because he goes under section 71 as an employee of the Crown. That is the point that I am making, only that point.

HON CHIEF MINISTER:

Well, I do not agree with the hon Member in the sense that Crown means Crown. I am just trying to see whether the Interpretation and General Clauses Act defines Crown. It does not define Crown?

HON F R PICARDO:

If the Chief Minister would give way, the Crown Proceedings Act says, I have not got the section at my fingertips, I think it is towards the end, where in our legislation the word "Crown" appears it always means Crown in right of the Government of Gibraltar unless the opposite intention is stated. In which case it can mean Crown in right of the Government of the United Kingdom. I will find the section to assist but Crown Proceedings is obviously a civil matter, this is a criminal matter. Section 29(2) of the Crown Proceedings Act.

HON CHIEF MINISTER:

Well, perhaps the hon Member could read it to me I do not have it in front of me.

HON F R PICARDO:

Yes, except as therein otherwise expressly provided nothing in this Act (which is the Crown Proceedings Act) affecting prize of salvage shall authorise any proceedings to be taken against the Crown under or in accordance with this Act in respect of any alleged liability of the Crown arising otherwise than in respect of the Government of Gibraltar or affect proceedings against the Crown in respect of any such alleged liability. Then (c) affect any proceedings by the Crown otherwise than in right of the Government of Gibraltar.

HON CHIEF MINISTER:

But here Crown means Crown. Look, the UK for its officers is as bound by the Rome Convention as everybody else. There can be no argument. If a UK Crown officer were physically in Gibraltar, he would be, I would argue, covered by the word "Crown". If somebody wants to argue the contrary let them go to the court. What the hon Member is saying, let us make it clear, let us say that it does mean Crown, I think that is not necessary. We could say "and for the purposes of this section Crown means Crown both in right of the Government of Gibraltar". Well, it would not be the Government of Gibraltar it would be Crown means Crown in right of Her Majesty's realm but it is not just Gibraltar. It is intended to include Crown qua UK. I thought he was inviting me to make it clear that it was Crown qua UK.

HON F R PICARDO:

I am trying to understand what Crown it is that we think we are binding and that we are able to bind and then there are consequences of that.

HON CHIEF MINISTER:

There is only one Crown. There are two Governments, there is Her Majesty's Government in Gibraltar and there is Her Majesty's Government in the United Kingdom but there is only one Crown. That is, therefore, not sub-divisible for these or, well it actually is sub-divisible for some purposes but there again, the hon Member is not going to persuade me because it is not the sort of point that I can take on.

HON F R PICARDO:

I do not want to persuade him I just wanted him to say what it was that the Government believed they were doing. That is all.

HON CHIEF MINISTER:

The Government believe that Crown means Crown, not just Crown in right of Gibraltar.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

Before moving the usual petition on Committee Stage and Third Reading, I would on a point of order welcome a ruling from the Chair. I do not suppose it would be controversial but I think it is

just as well now, particularly with the six week rule in legislation, before it was seven days' notice, that we establish a practice when we are moving. The Hon Mr Speaker and hon Members will be aware that the practice is that once the Government's business on the Order Paper is exhausted, then the House is to be adjourned sine die, assuming there are no Opposition motions or things of that sort. The question is, if there are Bills left on the Order Paper but cannot yet be taken because the six weeks have not yet passed, is that business on the Order Paper so that if I adjourn we are still on Government business, or is it not so that therefore the agenda will move on to the other items on the agenda of the House, Opposition motions and things of that sort. It is not that I want a particular ruling, it is that I would like to be clear on that because the issue for us is whether we have to leave one pending Committee Stage and Third Reading, or whether especially now that the House has helpfully set out the Bills to which section 35(3) of the Constitution apply, these are published Bills they are published but the House is not yet constitutionally free to proceed upon them, whether that is business on the House's agenda even though it is not free to proceed to that piece of the agenda or not. So that if I adjourn to a date in which the House can take these Bills, is that still in order or is that somehow going to be said to having exhausted Government business and we then cannot return to this. It is an issue which the House has not had to confront before because there was only seven days' notice of Government business required. Now, we can come to whatever conclusion we like on that, it is not that the Government have a particular preference for one rule or another but it is just a little bit pointless to leave something hanging over when there is already published business on the agenda, so long of course as the next adjournment of the House is for a date on which the next Bill can be taken. So, for example, let me tell the hon Members the next Bill there, at the bottom of page 2 of the Order Paper, can be taken on 14th June. So long as I adjourn the House to the 14th June or later, obviously I cannot adjourn the House for a day before the 14th June because then I would have no business. But so long as the adjournment is for a date when the next Government Bill can be taken constitutionally, is that admissible

to the House or does the House prefer me just to keep one Third Reading or one Committee Stage pending? That is the question on which I would welcome the views of the Opposition.

HON J J BOSSANO:

I think it would be preferable to keep one item pending unless there is a particular reason that the Government requires the legislation to be passed. In which case, we could agree then on those occasions we take it that we are still on Government business. But as a general practice it ought to be that we keep one pending as we have been doing until now. That would be my view.

HON CHIEF MINISTER:

Well, it has got to be one or the other.

HON J J BOSSANO:

Well, it does not have to be one or the other in the sense that I am not required to take the same view as the Chief Minister. I am free to take a different view from him and I do not agree with him. I am saying, as far as we are concerned, it should be the other but since we are generous and flexible people we are prepared, if he is in trouble, to forego the rule just like we made an exception recently that we delivered the Estimates without the House convening, which is the practice that has been going on for the last 30 years. If he prefers it being one or the other, then the answer is we want the other.

HON CHIEF MINISTER:

From the Government's point of view we do prefer it to be one or the other and the House has got to be clear of what its rules of

practice are. In other words, it cannot be that one has got to be left over unless the Government think that they are in trouble. I do not know what being in trouble means in those circumstances, but in effect the choice is going to be all mine anyway. If all I have to say to this House is, well it is just that I want to take these four Bills today, it boils down to the same. When I said it would have to be one or the other, what I meant was that there is no difference between what he has said and what I have said if the choice is going to be the Government's anyway. We are talking about when the agenda of the House moves on, it is a matter of a ruling from the Chair. The Government has no particularly strong view one way or the other but would like to know what ground they stand on.

MR SPEAKER:

My understanding of the position is that once a Bill is published it finds its way into the agenda of the House, as indeed has occurred on this and on previous occasions. What the Clerk has been careful to do is to identify which Bills, by virtue of section 35(3) of the Constitution, can not be taken at the Sitting today. Hence we have that division there, Bills to which section 35(3) of the Constitution applies. But that is the agenda of the House, albeit that Bills after the first four cannot be taken today. In my view it is possible for the Government to adjourn at any stage it seeks up to including conclusion of the fourth Bill listed in the Committee Stage and Third Reading of the agenda, leaving the rest as the Constitution provides for debate. The Constitution provides that a Bill may not be taken, may not be read, until the lapse of six weeks. So it is part of the agenda except that it cannot be debated unless the Chief Minister certifies it as urgent. So in my view it is open to the organisers of the Government business to seek adjournment at any stage up to but not including the first item on the Bills to which section 35(3) applies.

HON CHIEF MINISTER:

Well, if I have understood Mr Speaker's ruling, in that case I have understood him to mean that we can take the four Committee Stage and Third Readings, or the Committee Stage and Third Readings of the four Bills and that we have not exhausted Government business on the agenda. Except that we are then obliged to adjourn the House to a date when the next Bill can be taken under section 35(3).

MR SPEAKER:

Exactly, because the business of the House is as stated on the Order Paper. All that we are constrained is by section 35, it says Bills after the fourth item listed on the Committee Stage cannot be dealt with today. They are still on the agenda.

HON F R PICARDO:

By way of clarification so that we can all understand where we are, an item is not on the agenda of the Parliament, a Bill is not on the agenda of the Parliament until it is a Bill for First and Second Reading. As Mr Speaker pointed out, what the Clerk has done is very usefully carefully set out which are the Bills that are not yet on the Table, which are not yet for First or Second Readings. So therefore, the agenda of the Parliament really ends after the fourth item on the Committee Stage. What is set out as Bills to which section 35(3) of the Constitution applies is almost a footnote, a very useful footnote so that we know what we are dealing with but they are not items formally on the Table of the Parliament. Therefore, Government business ends when the items which are live on the Table of the House are dealt with, which is the fourth item of the Committee Stage and Third Reading Bills. I cannot think it can be any other way otherwise we are giving life to something which is at the moment out of the Parliament. It needs to be published for six weeks before it can

be read a first time. When it is read a first time that is when it is in the Parliament.

MR SPEAKER:

With respect, the agenda which we have before us today is the agenda for today's sitting. Are we not confusing the agenda for the day as opposed to the agenda for the session? This Parliament started in February and it is still in session until all the items are exhausted.

HON F R PICARDO:

Mr Speaker is absolutely right, I could not agree with him more. All the items means all the items on the agenda. The agenda ends when we reach the fourth item on the Committee Stage and Third Reading index. Everything that appears after that appears there as a very useful aide memoire, it is not on the agenda. Constitutionally these Bills cannot be proceeded upon, in effect they cannot enter this House, and I will use that language they cannot be proceeded on, they are not on the agenda of this House. Let me take it again, they cannot be proceeded on and therefore cannot be on the agenda of the House until the six weeks have elapsed, or unless the Chief Minister certifies them as being necessary to deal with before the six weeks have elapsed.

HON CHIEF MINISTER:

Well, if the hon Member will give way, I think that is the crux of the matter. The fact that they cannot be proceeded on necessarily means that they cannot be on the agenda. For example, the Clerk could have, and this is the question just put in another way, the Clerk could have instead of listing Bills to which section 35(3) of the Constitution applies and listing them there, he could have listed them under First and Second

Readings but I would then not have been able to get to the First and Second Readings of them. He could have listed them there. The Constitution does not say one cannot have it on the agenda, the Constitution says one cannot proceed on it. So I suppose, if that had been on the agenda obviously I would not have risen to speak on the Bill, but the Clerk would not have called the business for the agenda. It then would beg the question of whether the error is not in the practice that we have at the very front of making this an agenda for a sitting, because this is not really an agenda for a sitting. It is an agenda for as many sittings as the Government decide. So should that not read "I am directed to inform you that the revised agenda of Parliament which will next sit on Thursday 31st May is as follows"? Because this is not an agenda just for this sitting. Indeed, the Clerk cannot possibly know how many sittings worth of business is presently printed on this piece of paper. Forget the list, forget the long list. I could have moved the adjournment after the first Bill that we discussed today. I see the force of the argument that if this is an agenda for this sitting only and there is an item of business which constitutionally cannot be taken in this sitting, then I do not see how it can go on the agenda for this sitting. But of course, the mistake perhaps is in thinking that this is the agenda only for this sitting. So there is no reason why agendas cannot be differently phrased. For example, I have given just one formula. Perhaps we should just carry on the old practice whilst the Speaker and the Clerk have an opportunity to consider this but one proposed suggestion might be that the agenda should read, "I am directed to inform you that the revised agenda for the Parliament the next sitting of which is to be held on 31st May", in other words making it clear that this is the revised agenda for the current meeting, and one could even say that. "I am directed to inform you that the revised agenda for this meeting of Parliament, the next sitting of which is to be held", making it clear that everything on the agenda is the current business for the sitting for however it lasts. But I would not want Mr Speaker to rush nor do I want to force on the House by making an application of which I have not given notice. What I will do, if Mr Speaker prefers me to, is just to leave an item on the agenda. For now I will not move the Third Reading of one of

these Bills and perhaps Mr Speaker can consider in slower order whether, given what the hon Member has just said and what I have just said, whether there is not a proper way or a clear way in which we can give effect to the spirit of the ruling that Mr Speaker has just made, perhaps with a little bit of modification of the presentation of this agenda. That might be a consensual way forward.

HON F R PICARDO:

It will give us some time also to think what the consequences might be.

MR SPEAKER:

I think I was trying to draw a distinction, perhaps not very eloquently, between the meeting or session of Parliament as opposed to a day's sitting. I think it is worth getting our thoughts together and agreeing on a formula which pleases everyone.

HON CHIEF MINISTER:

The problem with that is that the agenda does say that it is the agenda for the next sitting and that is, perhaps, the language that we could tweak to make sure that this is the revised agenda for the meeting, which simply mentions when the next sitting is going to be. So this is no longer the agenda just for the sitting, it is the revised agenda for the whole meeting and, therefore, it would be legitimate to put things in it which cannot actually be taken at the next sitting.

MR SPEAKER:

I am obliged.

HON CHIEF MINISTER:

Well, in those circumstances I beg to move that the Committee Stage but not the Third Reading of the Bill be taken later today. They still have to agree to the Committee Stage being taken today.

Question put. Agreed to.

COMMITTEE STAGE

HON CHIEF MINISTER:

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

1. The Gibraltar Laws (General Amendment) (No. 1) Bill 2007;
2. The Supplementary Appropriation (2006/2007) Bill 2007;
3. The Imports and Exports (Amendment) Bill 2007;
4. The International Criminal Court Bill 2007.

THE GIBRALTAR LAWS (GENERAL AMENDMENT) (NO. 1) BILL 2007

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

Clause 3

HON CHIEF MINISTER:

In clause 3 I have today, this is a second amendment letter not the long one I issued on 16th April, I have today circulated an amendment letter to delete the words “Gibraltar Parliament” there because if we delete the words “House of Assembly” and replace them with the words “Gibraltar Parliament”, where legislation presently says Gibraltar House of Assembly it will say Gibraltar Gibraltar Parliament. So we delete the word “Gibraltar” and simply say “Parliament”.

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

Clause 4

HON CHIEF MINISTER:

As I said during the debate on the Second Reading, sub-clause (2) of clause 4 is inappropriate and the Government withdraw it and wish to delete it.

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

Clause 5

HON CHIEF MINISTER:

Mr Chairman, ditto for clause 5(2). Just to remind the House, these are the subsections that would have given the Chief Minister the power to add to the Schedules. In other words, allowing us perhaps to amend principal legislation by regulation, which is actually something which the Government have always avoided doing.

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

Clause 6

HON CHIEF MINISTER:

Same point there, the deletion of sub-clause 6(2) and the consequential renumbering of sub-clause (3) to sub-clause (2).

Clause 6, as amended, was agreed to and stood part of the Bill.

Clause 7

HON CHIEF MINISTER:

The same point, the deletion of clause 7(2). I do not know whether just going back to the others, as a matter of housekeeping, whether if a clause had a sub-clause (1) and a sub-clause (2) and one deletes sub-clause (2), whether one still needs to retain the numbering of sub-clause (1) or it just becomes an un-numbered sub-clause. So, if I could go back to clauses 4 and 5 the (1) should be deleted from after the figure 4 and after the figure 5 and the same in clause 7.

Clauses 4 and 5, as further amended to remove the reference to sub-clause (1) in each of those clauses, was agreed to and stood part of the Bill.

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

Clause 8

HON CHIEF MINISTER:

The same point. To remove sub-clause (1), not the language obviously, remove the (1) from sub-clause (1) and delete sub-clause (2) in its entirety.

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

Clauses 9 to 12 – were agreed to and stood part of the Bill.

Schedule 1

HON CHIEF MINISTER:

I do not know whether the House wants me to take them through each of these amendments to the Schedule, most of them are just erroneous cross-references or whether they wish to speak to it. I will do it that way until the House indicates otherwise.

HON F R PICARDO:

The Chief Minister took us through them last time in some detail. We have got them and I think the Clerk can simply make a note of them.

HON CHIEF MINISTER:

I am grateful to the hon Member, it will certainly save a lot of time.

In the row titled "Pawnbrokers Act", delete the reference to section "15(3)".

In the row titled “Companies Act”, delete “Section 17(3)(c)” and replace with “Schedule 10 paragraph 17(3)(c)”.

In the row titled “Co-Operative Societies Act” delete “Section 68(2)” and “Financial Secretary”.

In the row titled “Public Services Contracts Regulations 1996”, delete the references to Regulations “20(7), 22(3), 28(1), (2), 29(1), (2) & (3)” and replace with “21(8), 23(3), 27(1) & (2), 28(1), (2) & (3)”.

In the row titled “Financial Markets and Insolvency (Settlement Finality) Regulations 2002”, delete the reference to Regulation “15(1)” and replace with “15(2)”.

In the row titled “Borrowing Powers (1988-1992) Act 1988”, delete the references to Sections “13, 14” and replace with “13(1) & (2), 14(2)”.

Schedule 1, as amended, as indicated previously in the Chief Minister’s letter of 16th April, was agreed to and stood part of the Bill.

Schedule 2

HON CHIEF MINISTER:

Again, as amended, as indicated in the letter:

In the row titled “Mutual Legal Assistance (International) Act 2005”, delete the word “competent” and replace with the word “central”.

In the row titled “Mutual Legal Assistance (European Union) Act 2005”, delete the word “competent” and replace with the word “central”.

In the row titled “Revised Edition of The Laws Act”, insert “1998” after the word “Act”.

Delete the row titled “Deep Sea Mining (Licensing) Act”.

In the row titled “Drug Trafficking Offences Act”, insert “1995” after the word “Act” and delete the reference to Section “40(3)” and replace with “40(2) & (3)”.

In the row titled “Insurance Companies Act”, insert “1987” after the word “Act”.

Schedule 2, as amended, as indicated in the Chief Minister’s letter of 16th April, was agreed to and stood part of the Bill.

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

Schedule 4

HON CHIEF MINISTER:

Same point, amended as set out in three places in the letter:

Delete the reference to “Civilian Air Terminal Act” and replace with “Civil Air Terminal Act”.

Delete the reference to “Newspaper Act” and replace with “Newspapers Act”.

In the row titled “Currency Notes Rules”, insert the following in the relevant columns:

- a) “Rule 18(5) (second reference)”
- b) “Financial Secretary”

Schedule 4, as amended, as indicated in the Chief Minister’s letter of 16th April, was agreed to and stood part of the Bill.

Schedule 5

HON CHIEF MINISTER:

Same point:

In the row titled "Civilians Registration Act", delete "Schedule 2, paragraph 7(1)" and replace with "Section 7(1)".

Delete the row titled "Civil Air Terminal Act".

Delete the row titled "Explosives Act".

In the row titled "Marriage Act", delete the reference to section "2".

In the row titled "Trade Unions and Trade Disputes Act", insert "10(1)" after "6(2)".

In the row titled "Garrison Library Act", delete "paragraphs 1, 4" and replace with "paragraph 1".

In the row titled "Money Lending Act", delete the reference to section "5(5)" and replace with "6(5)".

In the row titled "Merchant Shipping Regulations 1988", delete the reference to Regulation "3(b)" and replace with "3(c)".

In the row titled "Pensions Act", delete the reference to Sections "8(1), 8(2)".

In the row titled "Medical (Gibraltar Health Authority) Act 1987", delete the reference to Section "6".

In the row titled "Education and Training Act", delete the reference to Section "4(1)".

Schedule 5, as amended, as indicated in the Chief Minister's letter of 16th April, was agreed to and stood part of the Bill.

Schedule 6

HON CHIEF MINISTER:

In Schedule 6, again the letter is self-explanatory but there was just one that I would just like to point out to the hon Members, because this is not just correction of mis-references. This amendment by adding a new section (e) to section 17(2) of the Companies Act, in the Companies Act the effect of changing Governor to Government is that the Government, it is this business of who can approve the use of certain words. In respect of the amendment that we are suggesting in the letter, would have the effect that there are a number of restricted words and they would all be useable on the permission of the Minister. But the words "Royal", "Windsor" or "Crown", which imply a connection with the British Monarchy would not be useable in accordance with the permission of the Minister but would require the permission of the Governor as the Queen's representative in Gibraltar. That is the effect of that particular amendment there. I just thought it was worth pointing that one out because it is slightly different. That is not a routine amendment with no substantive effect, this is not correcting cross-references.

In paragraph 12 titled "Currency Notes", delete the reference to Rule "20(5)" and replace with "18(5)".

After paragraph 13 insert the following:

"14. Companies Act

Section 17(2)(e) of the Companies Act is deleted and replaced with:

“(e) includes any word or expression for the time being specified in regulations made under subsection (4) of this section:

provided that the Minister shall not consent under subsection (2)(a) to the use of the words “Royal” or “Windsor” or “Crown” or to any name which suggests or is calculated to suggest the patronage of Her Majesty or of any member of the Royal Family or connection with Her Majesty’s Government in the United Kingdom without prior written consent of the Governor.”

15. Medical (Gibraltar Health Authority) Act

Section 6(2)(i) of the Medical (Gibraltar Health Authority) Act is amended by deleting the words “by the Governor”.

16. Marriage Act

In section 2(a) of the Marriage Act, after the word “Governor” insert “in his capacity as Commander in Chief”.

17. Education and Training Act

Section 4(1) of the Education and Training Act is amended by deleting the words “, other than such provisions as the Governor may by order in the Gazette specify”.

Schedule 6, as amended, as indicated in the Chief Minister’s letter of 16 April, was agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (2006/2007) BILL 2007

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

Clause 3

HON CHIEF MINISTER:

In clause 3, I move to amend that the reference to “£12,000,000” should become “£9,000,000”.

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

Clause 4 – was agreed to and stood part of the Bill.

Schedule

HON CHIEF MINISTER:

In part 2 of the schedule, Head 13, delete the figure “£12,000,000” and replace with the figure “£9,000,000”.

The Schedule, as amended, was agreed to and stood part of the Bill.

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

THE IMPORTS AND EXPORTS (AMENDMENT) BILL 2007

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

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

THE INTERNATIONAL CRIMINAL COURT BILL 2007

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

Clause 2

HON CHIEF MINISTER:

In clause 2, I have given written notice to amend the definitions by adding a definition of the word “State” to read “includes territory” after the last definition.

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

Clause 3

HON CHIEF MINISTER:

In clause 3(6)(a), in fact there is no such thing in Gibraltar as the International Organisations Act, it is the Diplomatic Privileges (International Organisations) Act and I move to amend the Bill accordingly there.

HON F R PICARDO:

I am not very clear in respect of the effect of that amendment. The Bill that I have refers to the Diplomatic Privileges Act, the Consular Relations Act or the International Organisations Act.

HON CHIEF MINISTER:

But there is no such Act as the last one.

HON F R PICARDO:

Does the first one stay? There were two, I have not checked this. There is the Diplomatic Privileges Act and the Diplomatic Privileges (International Organisations) Act.

HON CHIEF MINISTER:

Yes. It is just a mis-naming of the third Act.

HON F R PICARDO:

But the first one stays, it is a separate one?

HON CHIEF MINISTER:

Yes.

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

Clauses 4 and 5 – were agreed to and stood part of the Bill.

Clause 6

HON CHIEF MINISTER:

In clause 6(3), I wish to move an amendment so that after the words in the penultimate line, after the words “the court shall” simply to make clear who makes the application. The “court shall” insert “on the application of the Attorney General” issue a warrant for the arrest et cetera. It is just that it does not specify who, it simply says the court shall issue a warrant without saying on whose application.

Clause 6, as amended, was agreed to and stood part of the Bill.

Clauses 7 to 8 – were agreed to and stood part of the Bill.

Clause 9

HON CHIEF MINISTER:

In clause 9(8), I move an amendment to add the words “but the court may not grant any other relief” after the word “ICC”.

Clause 9, as amended, was agreed to and stood part of the Bill.

Clauses 10 to 12 – were agreed to and stood part of the Bill.

Clause 13

HON CHIEF MINISTER:

In clause 13, I would wish to move an amendment to add a new sub-clause (8) after sub-clause (7). So this is a new sub-clause to say, “For the purpose of subsection (7), a case is pending (unless proceedings are discontinued) until (disregarding any power of a court to allow a step to be taken out of time) there is no step that the Minister or the Attorney General can take”. In other words, it is to introduce a definition of what a case pending is. Subsection (7) says “subject to subsection (6) an order for the remand of the arrested person shall have effect so long as the case is pending”, but the Act never says when is a case pending and when is the case not pending. What this means is that the clause that we are inserting means that without prejudice to a court’s power to allow a step to be taken out of time, a case is pending until no further step can be taken in it by the Minister or by the Attorney General.

HON F R PICARDO:

Just in relation to that section, the proposed new subsection, the wording there refers to “a court”. All the other references are specific either to the International Criminal Court or the court when it is referring to the national court. Here there is a reference to a court. It might be arguable that that reference to court refers to both the ICC and the Gibraltar court when I think it is clearly designed to be a reference to the Gibraltar court, which is the court throughout.

HON CHIEF MINISTER:

I have no difficulty in changing “a” to “the”, although I can think of circumstances, actually, when the ICC may have something to say. Somebody may apply through their lawyer to the ICC to drop its request.

HON F R PICARDO:

The Minister and the Attorney are here.

HON CHIEF MINISTER:

That can read “the court” rather than “a court”.

Clause 13, as amended in the manner proposed by the Chief Minister’s letter today and as further amended by the suggestion of the Hon F R Picardo but as agreed by both sides, stands part of the Bill.

Clauses 14 to 22 – were agreed to and stood part of the Bill.

Clause 23

HON F R PICARDO:

This is the issue that we debated earlier, I think that we have agreed that it makes sense to add the words “if so arrested” where the word “and” appears in the second line of the first sub-clause. He may be arrested by any police officer and “if so arrested”.

HON CHIEF MINISTER:

We can accept the amendment. It is not 100 per cent necessary but I certainly agree that it makes it much clearer and certainly puts the intended meaning beyond doubt. Absolutely. Certainly, it is arguable whether it is not necessary. The view has been expressed behind me that it is not necessary but I am not myself that clear.

HON F R PICARDO:

I just think that somebody’s lawyer could argue if they have not been brought before the court that they were required to be brought before the court in Gibraltar before they arrived in the Hague.

HON CHIEF MINISTER:

I agree.

Clause 23, as amended, was agreed to and stood part of the Bill.

Clauses 24 to 32 – were agreed to and stood part of the Bill.

Clause 33

HON CHIEF MINISTER:

In clause 33 there is a proposed amendment to sub-clause (4)(a) to acknowledge the fact that a person may be in prison, not just because he is serving a term in prison but because he is committed to prison for contempt. So if we add the words “or committed to prison for contempt” after the word “prison” before the semi-colon in sub-clause (4)(a).

HON F R PICARDO:

I agree, that makes a lot of sense. Sub-clause (4)(c), which talks about the person committed to prison for default in paying a fine, I am not going to propose an amendment to that but actually a person committed to prison for default of paying a fine is imprisoned for contempt of court. I think it is important to flag it, I do not think we should change it but I think it is important we should flag it.

HON CHIEF MINISTER:

I thought he was going to make a better point. I thought he was going to say that a person who is committed to court for default in paying a fine is sentenced to prison, because the court says a fine of £50 or in default 7 days imprisonment. Well, if one chooses the 7 days imprisonment one is not actually in contempt of court. The court has offered a choice but it is a choice in a sentence.

HON F R PICARDO:

I think that is absolutely right in respect of fines in the Magistrates’ Court but it is possible for a court to impose a fine

and not provide a default sentence. The court can keep one coming back until one pays the fine and commit one for contempt whilst one does not pay the fine, or do such other thing as the court may require. I think we just need to put that down on the record of the debate.

HON CHIEF MINISTER:

I agree but then such a person would be covered by the amendment that we have introduced to (a) now.

Clause 33, as amended, was agreed to and stood part of the Bill.

Clause 34 – was agreed to and stood part of the Bill.

Clause 35

HON CHIEF MINISTER:

In clause 35(1) I have moved an amendment to insert after the word “request”, it just does not read very well. At present it says, “shall submit the request to the Attorney General together with a copy of the request to apply to the court”. Whereas, it would read better if it said, “with a copy of the request for the Attorney General to apply to the Court”. So insert the words “for the Attorney General” after the word “request”. It is just so that it reads clearly.

In sub-clause (13) of clause 35, there is a mis-reference to sections 8 and 28 of the Coroner Act. It should be a reference to section 11 of the Coroner Act. So delete “sections 8 and 28” and substitute with the words “section 11”.

Clause 35, as amended, was agreed to and stood part of the Bill.

Clauses 36 and 37 – were agreed to and stood part of the Bill.

Clause 38

HON CHIEF MINISTER:

The same sort of reading point. In section 38(1) the Minister shall transmit the request to the Attorney General who shall apply to the court for a production or access order or a search warrant. So delete the word “to” in front of “apply” and replace with the words “who shall”. So that it reads, “the Attorney General who shall apply to the court”.

HON F R PICARDO:

What if we were to deal with the drafting point without using the word “shall”, because the word “shall” in legislation is particularly imperative as the Chief Minister knows?

HON CHIEF MINISTER:

It is intended to be and required to be.

HON F R PICARDO:

I can see that that is what is required from the ICC and we would not want, in any event, to stand in the way of investigations of the proceeds of ICC type crimes. But it gives the Attorney General no leeway whilst all the other language we have used everywhere else is for the Attorney General to apply, rather than who shall apply. In the one that the Chief Minister moved just a moment ago for the Attorney General to apply in clause 35(1).

HON CHIEF MINISTER:

Yes, we could. If we could envisage circumstances in which the Attorney General is..... I suppose that could read, “the Minister shall transmit the request to the Attorney General and may direct the Attorney General to apply” or something like that.

HON F R PICARDO:

For the Attorney General to apply, would be what we have done before. “The Minister shall transmit the request to the Attorney General for the Attorney General to apply”. It is not just questions of standing in the way of the proceedings but the Attorney General may take the view that things have not.....

HON CHIEF MINISTER:

Well, we can use the language, we can use the amendment that I introduced into section 35. It can say, “for the Attorney General to apply”.

Clause 38, as amended by agreement, was agreed to and stood part of the Bill.

Clauses 39 to 53 – were agreed to and stood part of the Bill.

HON C A BRUZON:

Mr Chairman, if I could just ask your permission to say something that I wanted to say during the Second Reading, but because I think Mr Chairman inadvertently forgot to invite other Members of the House before the Chief Minister had his final say, could I mention something at Committee Stage concerning clause 54? It reads as follows, “this section shall apply if Gibraltar is designated by the ICC as a territory of a State of enforcement in which a person (the prisoner) is to serve a

sentence of imprisonment imposed by it”. The Chief Minister mentioned, rather interestingly of course, that the ICC does not have a country or prisons and so forth. I would like to know which are the States of enforcement and, obviously, this section that will not apply to Gibraltar unless the ICC so decides? Clarification on that please?

HON CHIEF MINISTER:

Well, the last point first. It is for the ICC to designate where it wants its convicts incarcerated, because this person will be in the Hague sitting in the dock, sentence will be passed and the judge says, I sentence you to 35 years imprisonment and he has got to go on to serve, given that he has not got a prison behind him or downstairs or down the road, and he has got to go on, I sentence you to 35 years in prison to be served in the Moorish Castle (not the Medieval Castle) in the Moorish Castle in Gibraltar. The State of enforcement is a reference to the fact that Gibraltar is not a contracting State. Gibraltar is not a State, Gibraltar is a territory of a State. The enforcement States are the States who are signatories and ratifiers of the Convention, which does not include, for obvious reasons, Gibraltar. So, the definition of “State” now includes territory and that is the reason. That is the best explanation that I can give the hon Member to his point.

HON C A BRUZON:

Maybe a remnant of the colonial trappings maybe.

MR CHAIRMAN:

I must apologise to the hon Member if I did not invite other Members to speak. It was certainly not my intention to curtail the participation of any and every Member in any debate of the Second Reading.

HON CHIEF MINISTER:

I think it was more a case of Mr Speaker inviting the hon Members and the spokesman said “no” with his head, oh he spoke on this. I beg the Members pardon, the Hon F R Picardo did speak on this.

MR CHAIRMAN:

I probably decided nobody else wanted to say anything, but without the intention to curtail anyone’s participation.

Clauses 54 to 57 – were agreed to and stood part of the Bill.

Clause 58

HON CHIEF MINISTER:

In clause 58(1)(a), where it says “relevant judgement or decision of the court”, that should be “relevant judgement or decision of the ICC”. So delete the word “court” and read “ICC”.

HON F R PICARDO:

That makes sense but the way that it is going to read now, at the moment the ICC’s jurisprudence could come in under (b) and the national jurisprudence would come in under (a). When we put in the ICC under (a) and only leave reference to other relevant international jurisprudence in (b), we seem to be doing the court out of its own jurisprudence, unless we take it as read that it can have regard to its own jurisprudence. I think the easiest way to deal with the point would be to say, “relevant judgement or decision of the court or of the ICC and other relevant international jurisprudence”.

HON CHIEF MINISTER:

Well, this is what it is mandatory for the court to do. One cannot say to the court it is mandatory to take into account your own jurisprudence.

HON F R PICARDO:

Once it has dealt with one case it may have jurisprudence that deals with how it has interpreted Article.....

HON CHIEF MINISTER:

It may or may not be binding in the common law sense. We cannot make it mandatory, this is mandatory.

HON F R PICARDO:

No, it is mandatory but it “shall take into account”.

HON CHIEF MINISTER:

“Shall take into account” is mandatory.

HON F R PICARDO:

“Shall take into account”, mandatory, but shall not necessarily be bound. We are not saying shall be bound.....

HON CHIEF MINISTER:

That is what “shall take into account” means.

HON F R PICARDO:

I think we all understand that when the court takes into account relevant jurisprudence, it considers itself bound by jurisprudence when it is jurisprudence of a higher court and which it cannot distinguish. But the way that we are doing it at the moment, we seem not to be requiring the court to take into account its own jurisprudence, which now may be irrelevant but say it dealt with four or five different cases under this Statute, it may have built up a body of national jurisprudence on the issue which, if we are going to mandate it to take things into account, it should also take into account. Whether or not it considers itself bound by those previous decisions will be a matter for the case. So just decisions of the court and of the ICC rather than taking out the court.

HON CHIEF MINISTER:

I am checking in the Convention itself. I am not persuaded by the hon Member but there is a point which arises having read the provisions of the Statute. That is that (b) should actually not be mandatory, it should be “may” and I think that would also address the hon Member’s point. It would sort of almost vicariously address it because if it is not mandatory there is no sense in which one could be disqualified from taking into account one’s own jurisprudence. The Act actually says “shall take into account any relevant judgement or decision of the ICC and may take into account other relevant international jurisprudence”. I would like to reflect that here. So that could be done by putting “the court – (a) “shall take into account any” so that it reads, “the court – (a) shall take into account any relevant judgement or decision of the ICC” and insert “may take into account” and “(b) may take into account any other relevant international jurisprudence”. So the amendment that I am actually proposing is that section 58(1) should read as follows:

“In interpreting and applying the provisions of the articles referred to in section 57, the court – (a) shall take into account

any relevant judgement or decision of the ICC; and (b) may take into account any other relevant international jurisprudence.”

I think it is a slightly different amendment but it also deals with the point that the hon Member made.

HON F R PICARDO:

That the court would be free to consider its own.....

HON CHIEF MINISTER:

Absolutely. As a result of which, the court not only would be free to take its own but is no longer obliged to take account of international jurisprudence, which is a slightly different point.

HON F R PICARDO:

It would be conflicting with the ICC Statute.

HON CHIEF MINISTER:

Whether it is conflicting it is not obliged to take into account, the Treaty does not require it.

Clause 58, as amended, was agreed to and stood part of the Bill.

Clause 59 – was agreed to and stood part of the Bill.

Clause 60

HON CHIEF MINISTER:

In clause 60 the reference in clause 60(2) to the words “under this section” should actually be a reference to the words “under section 59 or this section”. So I suppose after the word “under” we insert the words “section 59 or”.

Clause 60, as amended, was agreed to and stood part of the Bill.

Clause 61 – was agreed to and stood part of the Bill.

Clause 62

HON CHIEF MINISTER:

In clause 62(3)(a), instead of just saying “against section 244(1)”, it should be “against section 244(1) or section 283”. So add the words, “or section 283”.

HON F R PICARDO:

For the purposes of the debate and to consider the amendment proposed, the Chief Minister has the Statute with him, can he tell us what it is that an Article 70.1(a) offence is?

HON CHIEF MINISTER:

Yes. They are actually conveniently set out for him in Schedule 3, as I said in my Second Reading speech. But it is giving false testimony et cetera. These are the administration of justice offences. That is a straightforward print-out of the Statute.

Clause 62, as amended, was agreed to and stood part of the Bill.

Clauses 63 to 67 – were agreed to and stood part of the Bill.

Clause 68

HON CHIEF MINISTER:

In clause 68(3) just to clarify so that it should read better. It presently reads in sub-clause (3), “if any conduct would constitute an offence committed in Gibraltar then notwithstanding that it does not constitute such an offence a person who surrenders”. Of course, it should read more clearly “notwithstanding that it does not constitute such an offence in the jurisdiction in which surrender is sought”. So I propose that we add the words, “in the jurisdiction in which surrender is sought”.

Clause 68, as amended, was agreed to and stood part of the Bill.

Clauses 69 to 72 – were agreed to and stood part of the Bill.

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

Schedule 3

HON F R PICARDO:

The Chief Minister very kindly referred us to that Schedule a moment ago. Just looking at it now I note that from my reading of the Bill it makes sense that the whole of Article 70.1 should be reprinted there, but I have not spotted why 70.4 is there. It may be that the draftsman’s cut and paste of the footnote went a bit further than necessary, because I think we have already done what 4.(a) requires us to do by making the Act. I think that can

go. Although the footnote, I think the note should stay but the 4.(a) should go.

HON CHIEF MINISTER:

Yes, looking at article 70 itself, there is a 70.1 then a 70.2 and a 70.3, there is a 70.4 which reads exactly that. I agree. I think the whole of 4.(a) can go.

HON F R PICARDO:

But the note stays. We agree that as well, because the note goes back to 70.1, it clarifies it although I do not know what the note is doing in the Schedule.

HON CHIEF MINISTER:

Exactly, I think the note does not do any harm.

HON F R PICARDO:

It does not do any harm but perhaps that is not its place.

HON CHIEF MINISTER:

It is out of place, I think the whole of the note should go too, 4.(a) and the note should go, because clause 62(6) says that the corresponding offences are and then it says that the relevant provisions of article 70.1 are set out in Schedule 3. Schedule 3 should only purport to set out article 71 nothing else. Everything else it just has no read across back to its home section which is 62(1). So everything after the word "duty" in (f) should be struck from the Schedule as being superfluous and verbiage. I am obliged to the hon Member for that.

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

Schedules 4 to 7 – were agreed to and stood part of the Bill.

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

THIRD READING

HON CHIEF MINISTER:

I have the honour to report that:

The Gibraltar Laws (General Amendment) (No. 1) Bill 2007, with amendments;

The Supplementary Appropriation (2006/2007) Bill 2007, with amendments;

The Imports and Exports (Amendment) Bill 2007;

The International Criminal Court Bill 2007, with amendments.

have been considered in Committee and agreed to, with or without amendments and I now move that all Bills, with the exception of the International Criminal Court Bill 2007, be read a third time and passed.

Question put.

The Gibraltar Laws (General Amendment) (No. 1) Bill 2007;

The Supplementary Appropriation (2006/2007) Bill 2007;

The Imports and Exports (Amendment) Bill 2007

were agreed to and read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Friday 15th June 2007 at 2.30 p.m. and in doing so indicated to the hon Members for their convenience that the Budget debate, that is to say, the debate on the Appropriation Bill, would be taken on Monday 25th June 2007 which is when he would adjourn the House to after that.

Question put. Agreed to.

The adjournment of the House was taken at 4.47 p.m. on Thursday 31st May 2007.

FRIDAY 15TH JUNE 2007

The House resumed at 2.40 p.m.

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, 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 Miss M I Montegriffo

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

MR SPEAKER:

May I start off with a ruling which has been circulated a few minutes ago to the Members. This arises from the last sitting when the Chief Minister sought clarification of the effect of section 35, subsection (3) of the Gibraltar Constitution Order on the business in the Order Paper. Views were expressed by the Chief Minister and by the Leader of the Opposition and by the Hon Fabian Picardo, I expressed my own view and I think we left the matter that we would all give some thought. I have looked at the Constitution, the rules of Standing Orders of this House, I have consulted Erskine May and I have come to conclusions which reflect what I thought at the time. In short, you have my ruling in writing and I shall just leave it at that.

HON F R PICARDO:

Mr Speaker, if I may, I think from the Opposition side of the House we have not yet had a chance to read your ruling, let alone consider whether it is appropriate to leave it at that or to seek, with your leave of course, because it is your ruling, to make representations to you once we have an opportunity to consider it which I would seek.

MR SPEAKER:

Most certainly, I am always open to be persuaded if I am wrong. If I am wrong.

BILLS

FIRST AND SECOND READINGS

THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Social Security (Closed Long-Term Benefits and Scheme) Act 1996, 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 serves a dual purpose. Firstly, it increases the rates of benefits, that is to say, of pensions payable to pensioners in Gibraltar by 65.2 per cent as is already publicly known. This historic increase is made possible, of course, by the settlement of the Spanish pensions dispute which was one of the agreements concluded in Cordoba pursuant to the Trilateral Forum of Dialogue. Secondly, the Bill makes a small amendment by adding a new section 38 to the Act. The effect of the section is to enable the Minister to amend the benefits table by regulations. At least one of the Opposition Members, the hon the Leader of the Opposition will recall that this used to be the case before 1997 and we are just reverting to that old practice. Thirdly, the Bill amends Schedule 1, Part I, by inserting a new table with increased rates. I therefore commend the Bill to the House. The only thing that I would point out to Opposition Members is that the Title and Commencement, that is to say, Clause 1 of the Bill, provides for the Bill to be deemed to have come into operation on the 1st April 2007, which is of course two or three months ago, because that is the date from which the increased pensions, increased by 65.2 per cent, have been paid. So this is really statutory framework amendment to give effect to all of those measures that are already publicly known. 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 SOCIAL SECURITY (OPEN LONG-TERM BENEFITS SCHEME) (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Social Security (Open Long-Term Benefits Scheme) Act 1997, 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 again serves a dual purpose, it is really the sister or equivalent Bill to the one that we have just debated in relation to the Closed Scheme. It also, however, implements the Government's budget commitments of last year to exempt, well it does so in a statutory sense, of course it has been happening in practice already; the Government's Budgetary commitments last year to exempt persons over 60 years of age or one who has retired at age 50 by operation of law, basically uniformed bodies, Police, Firemen, and things of that sort, from paying social insurance contributions should they continue to work. These statutory amendments to the regime to permit that to happen is brought about, again relying on the provisions of clause 1, which introduced sections 1, 2 and 4, that

is the ones to do with the non-payment of further social insurance contributions by people over 60; those sections are deemed to have come in on the 1st July 2006, which is when all this started to happen in practice and sections 3 and 5, which relate to the increases in pension are deemed to come in on the 1st April 2007 which is when those pensions began to be paid. That is the only difference between this Bill and the other. I am moving an amendment to this Bill, Mr Speaker, of which I have given written notice which is just to clarify the fact that if a person who would have been entitled by law to retire aged 55, nevertheless retires earlier than 55, they cannot benefit from the tax exemption until they reach 55. The same rule that applies to somebody who has to retire at 60, they do not get the benefit until they reach the age of 60. In other words, the advanced age for people who are required to retire by law at the younger age of 55 does not earn them the additional advantage of getting that benefit if they retire before 55, because they might have voluntary retirement entitlement and things of that sort. 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 later today.

Question put. Agreed to.

THE SOCIAL SECURITY (INSURANCE) (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Social Security (Insurance) Act, 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 part this Bill does in respect of that part of the social insurance contribution that relates to the Social Security Insurance Fund, the same as we have just done in respect of the other two Bills of which we have just completed the second reading. In addition, it is the statutory provision to give effect to the previous Budget commitment last year to increase the levels of maternity grant and death grant payable to insured persons. I have again given the same notice of the same amendment in relation to the clarification relating to the persons who retire below the age of 55 and, again, the effectiveness of this Bill to provide statutory cover for what has already been happening, in fact, is delivered through the mechanism of the commencement clause 1 which says that, the Act shall be deemed to have come into operation on the 1st July 2006. I commend the Bill to the House.

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

HON C A BRUZON:

Mr Speaker, as one less versed in the intricacies of the law, I would like clarification on a point concerning the general principles of the law. As this is backdated to July 2006, those who have not been paying have they broken the law? Those who have paid, will they be given a refund?

HON CHIEF MINISTER:

Mr Speaker, whilst we are discussing the general principles of this Bill and not of the law at large, I am, of course, always happy to give the hon Member the benefit of such as might be my own legal understanding of the wider position. In fact, the question that he asks is academic because what he has suggested has not happened in fact. This is how the law has been operated since the 1st July and therefore the position is that if this House passes this Act, this will be deemed to have been the law since the 1st July 2006. So that if anybody has not collected a benefit, which is not the case, they would be entitled to it. If anybody has collected a benefit to which they are not entitled, they would have to return it but, in fact, that is the theoretical position, there is no such case in practice arising out of this Bill.

HON C A BRUZON:

It is just that the explanatory note makes reference to the payment of contributions.

HON CHIEF MINISTER:

Yes, Mr Speaker, this is about exempting people who have retired from their jobs in certain circumstances who carry on working or who may otherwise continue contributing for other reasons, not having to continue to make those contributions. In

fact, there are no people who have carried on making contributions in circumstances in which this Bill now retrospectively entitles them not to have made them. There are no cases of people now whose position has to be unscrambled and recalculated or things of that sort because this is how it has been operating in fact, it is just that we are making the law effective.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE FINANCIAL SERVICES (BANKING) (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to partly transpose into the law of Gibraltar Directive 2006/48/EC, of the European Parliament and of the Council, of 14 June 2006 which recasts the Banking Consolidation Directive 2000/12/EC and which relates to the taking up and pursuit of the business of credit institutions and financial institutions and their prudential supervision, 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 the third and last stage of the transposition of the Capital Requirements Directive which I will call the "CRD". The CRD updates European legislation in line with international recommendations by implementing in the EU the new Basle II Accord. Basle II is intended to reduce the possibility of consumers suffering loss or market disruption as a result of prudential failure, that is to say, the failure of banks to be run prudently, by seeking to ensure that the financial resources held by credit institutions and certain investment firms are commensurate with the risks associated with the business profile and the control environment within the institution or firm. In layman's terms, therefore, Mr Speaker, to make sure that banks are run in a way which reduces the possibility of loss to their clients and also to make sure that the regulatory regime applied to banks is not a standard vanilla flavour, but one that is tailor-made to the particular risk model. Different banks operate different risk cultures, in other words, take more risk in the conduct of their business. The new supervision model introduced by Basle II is designed for the first time to take into account that very subjective difference between the different banks which will be built in to the regulatory model so that banks that take a higher risk profile in the conduct of their business will be accordingly subjected to higher degrees of regulatory control. The CRD technically recasts two existing Directives: the Banking Consolidation Directive and, as I have said, the Capital Adequacy Directive and consists, in fact, of two Directives. They are Directives 2006/48 and Directive 2006/49 both of the 14th June 2006. The Capital Requirements Directive itself revised capital adequacy framework which has been improved by setting out the minimum capital requirements firms are required to meet for credit, market and operational risk and by introducing a process of supervisory review to capital regulation which points to the need for credit institutions to assess their capital

adequacy positions relative to their overall risks. These revised capital adequacy requirements imposed on credit institutions were embodied in the Financial Services (Capital Adequacy of Credit Institutions) Regulations which were published at the beginning of this year. These Regulations cover the first stage of the transposition package. The CRD also makes provision for further co-operation between the competent authorities of all EEA states and confers new powers and impose new duties on banking supervisors for the consolidated supervision of credit institutions. In other words, where a credit institution has an operation in more than one EEA country, then this law decides which of those supervisors in which of those countries has responsibility for consolidating the supervision of all the institutions in all the countries. In other words, the concept of a lead regulator in the context of a credit institution with pan-European operations. Therefore the CRD introduces provisions for the more effective supervision of pan-European groups consisting of credit institutions through what is called, "consolidated supervision". The consolidated supervisor takes a lead role in certain EU group supervisory activities, in co-operation with the supervisors in host States. The Financial Services (Consolidated Supervision of Credit Institutions) Regulations confer new powers and impose new duties on the Commissioner of Banking in Gibraltar for the consolidated supervision of credit institutions. These Regulations deal with the second transposition stage, in other words, where under the Rules it is the Gibraltar Banking Regulator that is the lead Regulator for all the European EEA countries, these Regulations that I have just recited give those powers to the Gibraltar Banking Supervisor. Directive 2006/48, which this Bill transposes in part in recasting the Banking Consolidation Directive, has introduced reinforced framework in some areas of prudential supervision of credit institutions in the European Union extended, where applicable, to the EEA, that is to say, the European Economic Area. These reflect new standards agreed internationally, as I have just said, by the Basle Committee on Banking Supervision in 2004 known as Basle II. The Bill takes care of those Articles in Directive 2006/48, which recast provisions concerning the authorisation, supervision and

intervention into the affairs of banks where necessary, and introduces some tighter controls. This Bill amends the Act in order to provide for these areas of reinforced supervisory regime in keeping with revised requirements in those provisions and carries out a number of consequential amendments. There is neither a radical change in the requirements for authorisation of credit institutions nor in regulatory or supervisory techniques. In more detail then, the amendments to section 2 updates the definition of "credit institution", "electronic money institution" and "shareholder control", "EEA Agreement", "European authorised institution" and "European subsidiary institution" and substitutes the recast Directive for the Banking Consolidation Directive and competent authority for relevant supervisory authority. In other words, it alters certain definitions in our existing Act to come into line with this new Directive that we are implementing by virtue of this Bill. As a result, there are a number of consequential amendments being made by a number of clauses in the Bill which do not require further explanation in the sense that they are consequential to these changes of definition. Section 2 also introduces a host of new terms and their meanings are drawn directly from the recast Directive. The definition clause for the phrase "close links" is transferred from section 2A where it now sits to the main body of the definition section, in section 2.

Clause 5(1) repeals the exemption from the licensing requirement of a licensed insurer and an EEA company carrying on insurance business and deletes the definition of EEA company. Clause 5(2) transfers the power to grant exemptions from the licensing requirements under our legislation from the Governor to the Minister with responsibility for Finance.

Clause 8 allows the Commissioner to publish codes of practice and guidance notes as administrative instruments to facilitate compliance with the requirements of the Act and its regulation.

Clause 9 requires the Commissioner to maintain an additional register, this time containing the names of all European authorised financial institutions with a branch in Gibraltar.

Under section 18, the Commissioner is required to consult the competent authority of the EEA State where a European institution is authorised, before determining whether to grant or refuse an application for a licence by a subsidiary or a controller of that institution.

Clause 11 substitutes the modern term of “own funds” for what used to be “paid-up capital and reserves” and allows the Commissioner to refuse a licence if the laws, regulations or administrative provisions of a non-EEA State would prevent the effective exercise of supervisory functions in relation to an applicant from such a State.

Section 23(3) provides a list of matters of which the Commissioner must be satisfied before he grants the licence. Clause 11 adds other criteria, namely, the requirement for robust governance arrangements and clear organisational structures, adequate internal control mechanisms and information about the identities of the shareholders who have qualifying holdings and the amounts of such holdings.

Clause 12 amends the time available to the Commissioner to determine an application for a licence.

Clause 13 places an obligation on an institution not to allow its own funds to fall below the amount of own funds required at the time that it was licensed. In other words, the requirement to have own funds at a certain level in order to create a financial buffer in the event of failure for the clients is not limited to the day that one gets ones licence, it has to be maintained throughout the time that one is doing business.

Clause 14 requires a notice from the Commissioner that he intends not to allow a licensee to establish a place of business in an EEA State, to state that the credit institution has a right of appeal against the refusal.

Clause 16 requires the Commissioner to exercise general supervision over transactions with mixed parental activities in

the context of holding companies. In other words, transactions with its parent mixed activities in holding companies and places an obligation on a licensee to have mechanisms to control transactions with its own parent and its other subsidiaries. In other words, these rules cannot be avoided by setting up a corporate structure and disguising some sensitive transactions first as inter-group transactions. In other words, they apply to the group as a whole so that anyone that is exposed to the group as a whole, any consumer whose interests are exposed to the financial viability of the group as a whole, has not had his protection defeated by such a mechanism.

Section 53 requires any person who acquires a qualifying holding in a credit institution to notify the Commissioner. Clause 19 takes this further by requiring a licensee incorporated in Gibraltar to notify the Commissioner on becoming aware of any acquisition by any person of a qualifying holding. Mr Speaker, that is the concept of the fact that an essential part of the supervisory regime and the prudential regime is to know who is the ultimate controlling shareholder because ultimate controlling shareholders have a cultural influence on the way the company is managed and run.

Section 54 of the current legislation allows the Commissioner to object to the acquisition of a qualifying holding by a particular person. Clause 20 of this Bill requires him to do so within three months from the date of the notice of acquisition.

Section 55, which required the Commissioner to object to a person becoming a controlling shareholder for the purposes of implementing a decision of the European Union, is deleted as it is no longer required under the terms of the recast Directive which this Bill is implementing.

Clause 22 requires a licensee incorporated in Gibraltar to notify any disposal by any person of a qualifying shareholding.

Clause 25 requires that where a licensee controls one or more subsidiaries which are insurance companies or financial or

investment firms, the Commissioner or Supervisor has to provide information to the Commissioner of Insurance or the Authority appointed under the Financial Services Act in relation to that particular supervisory role.

Clause 30 further requires a recognised European institution to give notice of any proposed change in the particulars included in the original notice of intention to establish a place of business in Gibraltar and allows the Commissioner to require a recognised institution to provide him, for statistical purposes, with periodical reports of its business activities in Gibraltar.

Clause 36 transfers the regulation-making power under this Act from the Governor to the Minister with responsibility for financial services.

Clause 39 substitutes Article numbers in the Banking Consolidation Directive for equivalent ones in the recast Directive.

Clause 40 deletes Part XII which deals with transitional provisions which have now become redundant.

Mr Speaker, I think that that is the principles dealt with in this Bill. The hon Members will see that I have given notice of a very small amendment to deal with what is an error of numbering of clauses in the Bill and I will table this at the Committee Stage as usual. In the meantime 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 SOCIAL SECURITY (EMPLOYMENT INJURIES INSURANCE) (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Social Security (Employment Injuries Insurance) Act, 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, as the House will have noticed, this Bill really belongs to the previous cluster that we discussed to give effect to last year's Budget commitment in respect to people who had reached the age of 60. It does so in exactly the same terms, in other words, it introduces a subsection that says that no person over the age of 60, or one who has retired at age 55 by operation of law, shall be liable to make social insurance contributions this time in respect of the Employment Injuries Fund which is one of the elements of the social insurance contribution as all the other Bills that we have just discussed related to other elements of the social insurance contribution. Again the same amendment, I have given written notice of,

which is the clarification paragraph in relation to persons who retire earlier than at 55. I, therefore, Mr Speaker, will not take any further time of the House by going over ground that we have now gone over two or three times. I commend the Bill to the House.

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

HON C A BRUZON:

Just on a small technical issue, Mr Speaker. My suggestion is, and in fact I do not know if it makes sense, but I have noticed that prior to the 31st March the contributions were nil. So would it not be logical to change the date for the commencement of the change from the 1st July to the 1st April?

HON CHIEF MINISTER:

Mr Speaker, regardless of whether it is logical or not, I cannot do this prior to a date before which I announced it. The budget last year took place around this date and to go back into the previous financial year, it has no implication for exactly the same reason as I said and that if it was nil, it is nil. But the hon Member knows that the social insurance contribution is a build-up of contributions to different elements and to different funds. That system is now being changed so that it now speaks of a percentage of the contribution rather than cash amounts. But still, these are budget contributions which we have put back to the 1st April 2006 which is the date more or less contemporaneous to the date.

HON J J BOSSANO:

I think, Mr Speaker, the Chief Minister misunderstood the date to which my colleague was referring. What my colleague was

saying was that prior to the breakdown of the insurance contributions on the 1st April this year, we were informed I think it was by the Hon the Minister for Social Services in an earlier House that there was no contribution to the Injuries Fund. So the Injuries Fund at the time that the House is exempting people at the age of 55, well they were already exempt. In fact, I do not see how one can say, but if you are under 55 and you retire you carry on paying because nobody was paying. The Government actually removed contributions to the Injuries Fund in 2006. So we are suggesting that the new regime should be applied to the date when the contributions started on the 1st April simply because it seems to make more sense than to have a law that says if you are 55 and you retire you do not pay when in fact you do not pay at any age.

HON CHIEF MINISTER:

That is how I understood the hon Member and that is why I have said to him that, in fact, it had no practical implication, whether it is one date or the other, precisely for the reason that the hon Member has just said, it makes no practical difference whether it is one date or the other and that is why I am suggesting that we should leave the date that the Bill says, although I agree with what they have both said.

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) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Public Health Act, 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, other than in clause 2(1), the rest of this Bill is intended to give effect to the Government's budget commitments of the previous year. In that connection, hon Members will see that in clause 1(2) of the Bill there are different commencement dates as appropriate introduced for different parts of this Bill.

Clause 2(1) makes a small amendment to section 19(1)(b) of the Act. The amendment is intended to complete the list of things in respect of which a person may be required to make good a deficiency. Thus, a manhole that represents a danger to the public is now included in this list. The clause serves to extend the level of protection to the general public by adding to the test of insufficiency, and what is added to the test of insufficiency is that something should be broken or appears to be a danger to the public. Hon Members may be aware that clause (b) says "any cesspool, private sewer, drain (we are now inserting manhole), soil pipe, rainwater pipe, spout, et cetera, provided for the building is insufficient, or in the case of a private sewer xxxxxx directly or indirectly with the public sewer is so defective as to admit subsoil water". We are now adding after "insufficient", "or is broken or appears to be a danger to the

public", because these are the circumstances in which a private property owner can be made to fix things. At the moment the law says they can only be made to fix things when they are insufficient, begging the question what insufficient means. So now if we pass this amendment we will be saying, you private landlord have to fix that because it is your responsibility as a private landlord, if it is insufficient or broken or appears to be a danger to the public. We are adding the last few bits.

Clause 2(2) and 2(5) amends section 272 and 117 of the principal Act respectively. A new subsection (5) is inserted into section 272 and a new subsection (7) into section 117. The effect of these is to abolish rates for garages and parking spaces where the occupier possesses a leasehold or a freehold interest in the property. Hon Members will recall that I announced that in last year's Budget.

Clause 2(3) amends section 277A, the effect of this is to extend to domestic ratepayers the 10 per cent discount for early settlement of the quarterly rates bills. As the House knows, this benefit has hitherto only been available to commercial ratepayers.

Clause 2(4) amends the definition of "special poundage" in Schedule 3 of the Act. The effect of this is to introduce a new lower rate of rates for retail and wholesale commercial premises. The rate is reduced from 55 pence in the pound to 46 pence in the pound.

As I have pointed out to the hon Members, sub-clause (2) of clause 1 says at section 2(1), that is the bit about the drain and the manhole cover, that comes in on the date of publication of the Act once it has received the Royal Assent, sub-clauses 2(2), 2(3) and 2(5) of the Bill, that is the bits that relate to the Budget measures, the rates on car parking spaces and on commercial rates and things of that sort, that is deemed to have come into operation on xxxxxx Sorry, scratch what I have said as to the commercial premises, as to the rates on the car parking spaces and the 10 per cent discount for early payment of residential

rates, it is deemed to have come into effect on 1st July 2006 and as to the special discount reduction in poundage for commercial retail properties, that is deemed to have come into effect on 1st January 2007, and all that is set out in the Title and Commencement that is clause 1 of the Bill.

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 JUDICIAL SERVICE ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to make provision for judicial service, to enshrine the independence of the judiciary, to provide for resources for the courts, to make provisions relating to the Judicial Service Commission, for the grounds upon which certain members of the judiciary may be removed from office, for the establishment of a Code of judicial conduct and ethics and for disciplinary matters relating to the judiciary, and for related matters, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, as the House will be aware this Bill in part reflects the new scenario introduced following the adoption of the new Constitution for Gibraltar. The Bill was published by the Government on the 3rd May 2007, following a detailed consultation paper which I addressed in my capacity as the newly appointed Minister of Justice, to addressees of the paper. The addressees to which the consultation paper was addressed were His Excellency the Governor, because he has certain remaining functions under the new Constitution for certain aspects of the judiciary; I addressed it also to the President and Justices separately of the Court of Appeal; separately also to the Chief Justice and other Judges of the Supreme Court; to the Stipendiary Magistrate; to the Chairman of the Justices of the Peace, and to the Chairman of the Bar Council for consultation with him and the Bar Council, and to the Attorney General. Hon Members will recall from our familiarity with the new Constitution that the new Gibraltar Constitution establishes a Judicial Service Commission consisting of the President of the Court of Appeal, who is its Chairman, the Chief Justice, the Stipendiary Magistrate, two members appointed by the Governor acting in accordance with the advice of the Chief Minister, and two members appointed by the Governor acting in his own discretion. The new Constitution constitutes the Governor as the appointer to judicial offices and gives him powers in relation to disciplinary matters. However, subject to one matter dealt with in section 57(3) of the Constitution, the Governor does not exercise any of those powers in his own discretion, he must act and must only act in accordance with the advice of this new body called the "Judicial Service Commission" which is enshrined in our Constitution, and primary legislation, of which this is the Bill for, is required to make more detailed provisions in relation to these matters and these things that I am saying here today were exactly my introductory paragraphs in the

consultation paper which I addressed, as I said, on the 21st February 2007 to the members of the legal profession and the judiciary that I recited earlier. I said to them that the Minister for Justice seeks the views of addressees on the terms of the attached draft proposed Bill for a Judicial Service Act. I told them that some of the provisions of the Bill reflect statements made and assurances given prior to the coming into operation of the new Constitution. Some provisions, I said, replicate with modifications, the Public Service Commission Act and Regulations made thereunder. Other provisions of the Bill are based on or reflect, in some instances modified to reflect local circumstances, some of the relevant and appropriate provisions of the United Kingdom's Constitutional Reform Act of 2005. I said, because attached to the consultation paper there was a White Paper, that is to say, a draft of the proposed Bill and I said in the consultation paper to the addressees, that those sections of the draft Bill which were inspired by and/or reflected provisions of the UK Constitutional Reform Act of 2005, were indicated in the draft attached to the consultation paper by including in square brackets at the end of the section, the section of the UK Constitutional Reform Act, from which it was drawn and which in some cases it replicates word for word. Finally, I asked addressees if they would be good enough to give me their views, or at least those who wished to express views, and they were asked to return those views to me in writing at No. 6 Convent Place to reach me by Monday 26th March 2007. The consultation paper then proceeded to set out a summary of the principal provisions and the effect of the principal provisions of the Bill and then, of course, attached in White Paper form, the full text marked up as I have just indicated, of the Bill itself. That culminated, as I have said Mr Speaker, in the publication on the 3rd May 2007 of the Bill itself. Mr Speaker, this legislative process is unconnected to the views expressed by the Learned the Chief Justice and/or his wife, Mrs Anne Schofield, and the responses and reactions of other parties and entities in Gibraltar to those, including the Government or, more widely, to the general controversy now surrounding the position of Chief Justice Schofield. If and when the Government considers it proper and necessary to make a

statement in relation to these wider issues unconnected to this piece of legislation, it will do so in due course and in this House. However, the consultation process to which I have just referred is part of the legislative process with which this House is concerned today and therefore I wish to bring to the formal attention of this House certain events relating to that consultation process.

As this House is aware, the Bar Council was one of the entities to which, as Minister of Justice, I addressed the consultation paper relating to the Bill which we are now debating. The consultation paper was delivered to the addressees of it on Wednesday 21st February 2007, except the Learned Chief Justice who got it a day earlier at his request on the 20th February 2007. On the 21st February 2007, Chief Justice Schofield wrote to me, the letter thanked me for letting him have sight, earlier I suppose he meant, of the draft Bill. He said, "Whilst I accept that there is much to commend in it, the provisions which put the present functions of the Chief Justice in the hands of a visiting President of the Court of Appeal are of particular concern. I am also concerned that the consultation process is intended to take place once the Bill is in the political domain. In the circumstances, I felt that I must discuss the draft with them whilst the members of the Court of Appeal are present in Gibraltar during this week". On the 22nd February 2007, that is to say, the next day, Chief Justice Schofield wrote to me again saying that he had had little time to review the draft before he went on leave and reserved any detailed comments until his return. He added that his "immediate reaction is that I have reservations about the constitutionality of clause 6 and furthermore the provision may well have contractual implications for me." The Chief Justice duly sent me his detailed comments on the 26th March 2007, after he had returned from his vacation. In the meantime, on Sunday 25th February 2007, that is four days after the issue of the consultation paper and two days after these letters from the Chief Justice, Mrs Anne Schofield, the Chief Justice's wife, sent an e-mail to Mr James Neish, Chairman of the Bar Council. In that lengthy two and a half-page e-mail, Mrs Schofield sends the Bar Council Chairman two long

lists of issues which she recommends the Bar Council to take into account when it considers the consultation paper and the draft Bill which they had just received. She starts the letter by saying, "I understand that the Bar Council has been consulted by the Minister for Justice with respect to the Financial Services Bill". The Financial Services Bill, of course, she meant the Judicial Service Bill, nevertheless a curious mistake and slip of the pen for the Chief Justice's wife who, to my knowledge, has no involvement in financial services whatsoever. In that e-mail she goes on to make amongst many others the following statements, "As a member of the public and a person who may be affected by any constitutional and contractual implications of the draft Bill, I recommend that the Bar Council before discussing the consultation paper and draft, considers and make recommendations on the following", and then amongst others she listed the following: "Considers and recommends that each member of the Council" – that is to say, the Bar Council – "discloses personal, political, professional and business relationships with the Government of Gibraltar, Minister for Justice or any other member of the Gibraltar Government. Further, consider and recommend that the following documents and information be circulated to all members" – of the Bar Council obviously – "to allow informed discussion and recommendations based on recognised legal principles and the applicable law in Gibraltar today and to ensure that voting on the recommendations is not based on personal, political, family or professional relationships with the Government, the Minister for Justice prior to the meeting". Mrs Schofield also said in that e-mail to the Chairman of the Bar Council that she wished also to request the Bar Council to consider and comment on the following when the Council meets to discuss the draft, amongst others, "Whether the Chief Minister in including these provisions" – referring to the provisions of section 6 of the Bill – "is demoting, demeaning, harassing the Chief Justice for statements or decisions that he may have made in the performance of his role as Chief Justice about the Chief Minister and whether this is an abuse of office and/or interference with the Chief Justice". Further, "Whether it is intended to cleanse the office of head of the judiciary at the moment to ensure the holder

or the current and future holders of the office of head of the judiciary whose experience may be from outside the UK are excluded and only retired English judges can hold office". Further, "section 6" - she meant although there was a misprint, it said "section section" – "to my mind" – that is to say to the mind of the wife of the Chief Justice of Gibraltar – "is an attempted rape of the Gibraltar Constitution and the Chief Justice's office and contract. In my view it is intended to force a resignation of the Chief Justice unless he accepts a demotion or to force him to sue in which case we shall hear calls for him to resign". Mr Speaker, these outrageous, false and inappropriate statements to boot.....

HON F R PICARDO:

Mr Speaker, on a point of order. Until now the Chief Minister has been in effect informing the House of what the views of a third party to it are of a Bill that is before the House. I have risen only when he started to make comments in respect of those matters because I think we have all been informed and we are all aware of the fact that they are matters which are presently *sub judice*. The implication of what those views may be is a matter which is in another place and I wonder whether it is appropriate for us to consider that here in the context of what the Bill is although, of course, if allegations have been made in respect of the mover and the purpose for his moving the Bill, I think he is entitled to tell us that those are not the reasons why he is moving the Bill but I think, without comment on the issues that may touch upon the matters that are in court.

HON CHIEF MINISTER:

Mr Speaker, I am of course aware that Mrs Schofield has written to you, as Speaker, and indeed to the Leader of the Opposition, trying to persuade you both to prevent me from saying things in this House which no doubt she finds uncomfortable. But someone who feels free to make serious allegations against

others in any forum publicly in Gibraltar, internationally to the Kenyan Commission of Jurists, to the Commonwealth Magistrates' Association, to local newspapers, is not well placed to try and gag the Chief Minister of Gibraltar when he tries to account in this Parliament. Secondly, nothing that I have said or am about to say is *sub judice*. As I understand it, what is *sub judice* is a libel action that Mrs Schofield has brought against Mr Neish, Leader of the Bar, for remarks made by Mr Neish. I am not going to refer to anything that Mr Neish says, I am going to refer to things that Mrs Schofield said and since Mrs Schofield is not suing herself for things that she has said, I do not see how anything that she has said could possibly be *sub judice* in a libel action that she brings against somebody else for what they said of her. Thirdly, my understanding of Erskine May, although this is obviously a matter of ruling for Mr Speaker, is that even if I was about to speak to things which are *sub judice*, which I am not, the case of Mrs Anne Schofield versus Mr James Neish is not yet sufficiently far advanced to incur in the rule against *sub judice* reference as I understand that rule from my glance at Erskine May on the subject. But, of course, I bow to Mr Speaker's ruling on the matter.

MR SPEAKER:

I understood the Chief Minister's remarks which led to the point of order being taken by the Hon Fabian Picardo, to refer specifically to comments which Mrs Schofield made in a letter to the Bar Council which alleges certain perceived conduct by the Chief Minister and/or the Government. If that is a remark which Mrs Schofield has addressed to anyone, then the Chief Minister has every right to respond to those remarks. On the question of *sub judice*, I have looked at Erskine May after having received letters from Mrs Schofield, I am sure the Hon Mr Picardo is familiar with Erskine May probably more than I am, but at page 436 of the edition which is the 2004 edition, there is a passage which deals with matters *sub judice*. I am referring particularly to the passage at page 437, "Following a recommendation from the Joint Committee on Parliamentary Privilege, the current

resolution governing matters *sub judice* was passed on the 15th November 2001". Does the hon Member have that? "Subject to the discretion of the Chair and to the right of the House to legislate on any matter or to discuss any delegated legislation, the House in all its proceedings including proceedings of Committees of the House, shall apply the following rules on matters *sub judice*: (1) cases in which proceedings are active in" – I will use the word Gibraltar there – "Courts shall not be referred to in any motion, debate or question". Then I will refer to sub-paragraph (b) there: "Civil proceedings are active when arrangements for the hearing, such as setting down a case for trial have been made until the proceedings are ended by a judgement on discontinuance." Perhaps the hon Member will assist me by informing me if he is aware whether the proceedings between Mrs Schofield and James Neish have been set down for hearing in order to come within the definition of "active".

HON F R PICARDO:

Mr Speaker, simply addressing myself to that point, I think all of those who will have seen, certainly and I speak on the basis that I have seen it, the document which has been sent to His Excellency the Governor in relation to another matter, will know that it is the allegation of some that that case, in other words, the case to which the hon Gentleman is referring, the case of Anne Schofield versus James Neish, has been activated already in the sense that there is an allegation that there have been hearings in that matter.

MR SPEAKER:

As far as I am aware, proceedings have been issued because I have been kindly supplied with a copy of the claim form but to my knowledge the matter has not been set down for trial as mentioned in Erskine May.

HON F R PICARDO:

Mr Speaker, if I might direct you to the note to which you directed me, b(1) says, "Civil proceedings are active when arrangements for the hearing" and then it says, "such as setting down a case for trial have been made". Mr Speaker, what I am telling you is that I believe that there have been hearings in this matter already although it may not be the setting down of the case for trial but that is simply given as an example of one of the many things which may be arrangements for hearing. As you will know, Mr Speaker, from our debates in respect of amendments to other Acts, there have been issues when we have debated what the word hearing means. In the Magistrates' Court, Mr Speaker, the very first appearance, in other words, the first mention counts as the hearing whether it is in civil or criminal matters. What I am informing the Parliament of from my fairly limited knowledge of the ins and outs of that case because I am not aware of them, but from my knowledge of the other document which has been prepared in peripheral matters related to this, there have apparently or it is alleged that there have apparently been hearings in that case. Mr Speaker, it is a matter for you to rule exactly as you wish. I limit myself to that and I will limit myself also to reminding the Chief Minister that I said that everything that he had said which was reflecting what had been written by this lady, he was reading into the record of the House for the purposes of information and I was not objecting to that and I am not pretending to. There is absolutely no problem at all. Mr Speaker, what I was objecting to was what it appeared that he was going to go on to say.

MR SPEAKER:

I am obliged to the hon Member. There is clearly a distinction in Erskine May between civil proceedings and criminal proceedings. I did not read sub-paragraph (a), "criminal proceedings are active when a charge has been made" that is very early on. Civil proceedings, on the other hand, does not talk of being active when a claim form is issued but much further

down the road when arrangements for hearing such as setting up a trial. Perhaps some other arrangements for hearing but certainly beyond just issuing of a claim form. Therefore in my view, the Chief Minister has not transgressed against the rule on debating matters *sub judice*. In any event, my understanding of the Chief Minister's speech, he refers to allegations made about him or about his Government in a letter from Mrs Schofield to the Bar Council to which he has every right to respond.

HON CHIEF MINISTER:

I am obliged, Mr Speaker. All that said and done, it is normally Governments that are accused of gagging Parliaments. I do not know what interest the Opposition in this Parliament have to prevent the Government from giving a public account of itself. The Opposition Member is not counsel for Mrs Schofield in a court of law here.

HON F R PICARDO:

On a point of order, Mr Speaker. To make a point of order to require an hon Member to stick to the rules of debate is not to seek to gag the Chief Minister unless it is every time that he were to raise a point of order against a Member of the Opposition also an attempt by the Government to gag a Member of the Opposition. But, Mr Speaker, another point of order obviously immediately arises if the Chief Minister is about to impute motive to another Member which is another breach of the rules. Let us be clear, we all have to stick to the rules.

MR SPEAKER:

Does the hon Member want a ruling? The Hon Mr Picardo raised a point of order, I have ruled on it and perhaps there is no need for any further debate on that issue.

HON CHIEF MINISTER:

I am obliged, Mr Speaker. As I was saying, these outrageous, false and inappropriate statements by Mrs Schofield to boot made in response to a consultation paper designed precisely to seek the views amongst others of her husband and lawyers before any Bill was settled by the Government, could not be more grave and more serious an allegation to be made against the Head of the Government or a Government. As an aside, Mr Speaker, I would inform this House that the Government believe that in the light of these statements and other issues and events that have happened surrounding Chief Justice Schofield and his wife, it is not possible in the Government's view for the Chief Justice to continue to sit in judgement in cases involving the Government and its interests. The Government have already made a formal application which is pending in one such.....

HON F R PICARDO:

Mr Speaker, on a point of order. There is a specific rule in relation to the conduct of officers who are responsible for the administration of justice. That rule is Rule 45(12), Mr Speaker. The Chief Minister has just made a comment about the effect of the conduct of the Chief Justice which I believe to be contrary to the rules of debate set out in that rule and I would ask you to refer him to it.

MR SPEAKER:

Would you mind reading that one, or at least let me have a look at it, mine has been left behind somewhere.

HON F R PICARDO:

Mr Speaker, Standing Order 45(12) which deals with the rules of debate states: "The conduct of Her Majesty, Members of the

Royal family, the Governor, Members of the Parliament, the Chief Justice or other persons engaged in the administration of justice shall not be raised except upon a specific substantive motion moved for that purpose and in any amendment, question to a Member or remarks in a debate on a motion dealing with any other subject any reference to the conduct of the persons aforesaid shall be out of order". Mr Speaker, in the circumstances, I ask you to rule that the Chief Minister is out of order.

HON CHIEF MINISTER:

If this is still not a one-sided court for the hon Member, there are still two sides even when he gets up to speak. Mr Speaker, if the hon Member thinks that the Chief Justice and his wife would enjoy it more, I am very happy to move a substantive motion. I am trying to exercise as much self-restraint as possible but the hon Member should remember that the matter to which I have referred to which he has just objected to, is a recusal application which has already been published by the local press, for which the Government have been asked questions by the press which have been the subject of reports, it is already in the public domain. Why the hon Member in the name of the people who he does not say are his clients should wish to prevent me from accounting to this House for what has already been reported on, for example, the front page of the Gibraltar Chronicle as soon as somebody gave them wind that the Government have made a recusal application, it is already out there. The whole community already knows that the Government have made a recusal application because we believe that the Chief Justice ought not to hear cases involving the Government, and I do not see what more than that I have said now, it is already published unless, of course, he is also going to bring a motion that the Gibraltar Chronicle and GBC and all the other papers are also in contempt of this House by being in breach of its Standing Orders.

HON F R PICARDO:

Mr Speaker, I would like to reply to the points that he raised on the ruling. Mr Speaker, first of all, if the Chief Justice and/or his wife were my clients I would have told the Parliament. I have made statements to that effect when I have had to make them.

MR SPEAKER:

I xxxxxx ruled in your favour xxxxxx

HON F R PICARDO:

I am obliged. Secondly, Mr Speaker, the Chief Minister has in his reply also, in my view, gone back to breaching the rule on *sub judice* matters by referring to the recusal application because the recusal application certainly is a matter *sub judice* which has been set down for hearing, as I understand it, in June. So, Mr Speaker, I do not care if the Chief Minister wants to sit here and read out the articles in the press to which he is referring. He can do that, Mr Speaker, so long as you allow him but if they do not breach the *sub judice* rule. The simple reference that I made to you was that there was a breach in the hon Gentleman's original statement about the conduct of the Chief Justice which clearly contradicted the rules of Standing Order 45(12). Far be it from me from the Opposition benches to try and gag a Government, I would be a fool, Mr Speaker, because they have a majority in this House and shame on a man who describes himself as a Minister for Justice to try to pervert the course of these proceedings by not sticking to the rules of debate.

MR SPEAKER:

I just wish to rule, I think we can move on really. First and foremost the fact that an hon Member rises to raise a point of

order should not be construed in any way as motivated by any personal or other benefit. As a Member of Parliament he has every right and every duty to ensure that the democratic process is carried out in a proper fashion. It would be helpful if the Chief Minister did not attribute any motives to the hon Member.

HON CHIEF MINISTER:

Of course, I am very sorry if I say anything that offends the sensitivities of the hon Member. He seems to have no similar compunction in the other direction but never mind, if he is quite so sensitive I will try not to upset his sensibilities. However, Mr Speaker, he may not be the lawyer for anybody because this is not a court and therefore there are no lawyers but he is doing precisely what Mrs Schofield has asked the Leader of the Opposition to do in an e-mail that she has sent, "Dear Joe", copied to the Government.....

HON F R PICARDO:

Mr Speaker, the hon Member is not dealing with the point.....

MR SPEAKER:

I am just going to finish my ruling then allow the Chief Minister to proceed with his speech. I have dealt with the first part of the ruling. As far as Standing Order 45(12) is concerned, yes, Parliament may not question the conduct of the Chief Justice among a list of other persons. The Chief Minister is entitled to state as a matter of fact, which we all know about, that there is an application for his recusal. What he may not do, and I do not believe he went into it yet, perhaps, what he is not entitled to do is to go into the merits of the application and develop that argument further. But to state, as a matter of fact, that there is an application does not contravene Standing Order 45(12).

HON F R PICARDO:

Remember that it was said “because of the conduct there is an application”, that is why I rose.

HON CHIEF MINISTER:

Well, obviously, why else would there be an application for recusal? Because I do not like the weather?

MR SPEAKER

As long as the Chief Minister does not go into the details of the conduct or seek to argue on the merits or otherwise of the application.

HON CHIEF MINISTER:

Of course, I am obliged. Mr Speaker, my own lack of understanding of what is proper in this House is not matched by the hon Member’s state of nervousness on behalf of the person whose lawyer he is not and I shall demonstrate that by reading the very next sentence that I would have read from this note had he not again stood to interrupt me like a nervous advocate. The Government have already made a formal application which is pending in one such case that the Chief Justice withdraws from hearing it. I shall be making a full statement in this House on this aspect of the matter as soon as I am free to do so. Mr Speaker, the events which have been unleashed as between the Chief Justice and the Bar in consequence of this e-mail and correspondence that followed it is already known and the Government are not involved in any of those aspects or matters. Those are matters between the Chief Justice and the Bar Council. Mr Speaker, so much for the consultation process and the response from certain quarters to it. Later on in this debate I will be happy to make direct reference and, indeed, I shall be

quoting from in my reply, if the hon Members would either want me to do so or indeed say something which requires me to do so, I will of course be very happy to refer directly to the written responses to the consultation papers that we have received from other addressees, members of the Court of Appeal, the Stipendiary Magistrate Mr Pitto, the other High Court Judge Mr Dudley, et cetera .

Mr Speaker, well, to the Bill itself which, of course, is the business of the day. *[Interruption]* Yes, well I know that he did not enjoy any of that and I know that the person that he does not represent would not have enjoyed it either but I have a public duty to explain myself in the light of serious allegations. Mr Speaker, the Bill itself is, I think, a piece of legislation which is a very good piece of legislation and which advances hugely the constitutional position in Gibraltar of the judiciary. It takes the judiciary much further away, well completely away in a sense, from this supposed status that the office of Governor had in it in favour of normal much more European democratic control mechanisms, much more transparent, much more accountable of a public body regulated by statute as happens almost everywhere else in the democratic world. It is the first time that Gibraltar will have legislation on many aspects that I will now take this House through of this Bill. Many of the other consultees made very valuable contributions in expressing their opinions in a conventional way to a consultation process which is precisely to seek the views of some relevant people before the Government commits itself to a Bill. Many of those, indeed, on most of the major issues that were raised by others, the Government have responded by modifying the Bill so that the Bill that is before the House has several important amendments in comparison to the one that was attached to the original consultation paper. Even in relation to clause 6 which I will come to in a moment, which is the one that appears to have the Learned Chief Justice and his household in such a state of panic.

Part 1 of the Bill deals with the usual business which is Title and Commencement and Interpretation, the definition of certain

terms that are used throughout the Bill and I do not think that there are any there that particularly I need to highlight to hon Members. I think they are all quite obvious and we will come to some of those terms when we get further into the Bill itself.

Mr Speaker, Part 2 of the Bill incorporates into our statute law for the first time ever certain statements of principle in relation to the rule of law and judicial independence and the Government of Gibraltar do not claim intellectual property rights in those provisions, they are not made in Gibraltar, they are borrowed in very large measure from the United Kingdom's Constitutional Reform Act 2005 which has provisions which are almost verbatim these and we thought that it would be useful that we should have some statutory enshrinement of what is already, in any case, a sort of constitutional/common law principle of independence of the judiciary.

So, for example, clause 3 of the Bill says, "This Act does not adversely affect – (a) the constitutional principle of the rule of law; (b) the constitutional role of any person in relation to that principle". The very same provision as in the UK.

Clause 4, a statement of the guarantee of continued judicial independence, again taken from the United Kingdom Act. "The Minister" – that is to say, the Minister for Justice – "other Ministers and" – indeed – "all" – people – "with responsibility for matters relating to the judiciary or otherwise for the administration of justice must uphold the continued independence of the judiciary. The following particular duties are imposed for the purposes of upholding that independence". Again never before has a Minister in Gibraltar had these sort of statutory obligations imposed on him. "The Minister, other Ministers and all with responsibility for matters relating to the judiciary or otherwise for the administration of justice must not seek to influence particular judicial decisions through any special access to the judiciary or otherwise". It sounds like a very obvious one, again borrowed directly from the UK Act. Sub-clause 4, "The Minister, other Ministers and all with responsibility for matters relating to the judiciary must have

regard to – (a) the need to defend that independence; (b) the need for the judiciary to have the support necessary to enable them to exercise their functions; (c) the need for the public interest in regard to matters relating to the judiciary or otherwise to the administration of justice to be properly represented in decisions affecting those matters". And for the purposes of the Act, "judiciary" does not mean just the well known local court, it means the Privy Council, the Court of Appeal, the Supreme Court, the Magistrates' Court, the Coroner's Court, any other Court established under the law of Gibraltar or under any law applicable to Gibraltar, and any international court.

Clause 5, for the first time ever, gives the President of the Court of Appeal and the Chief Justice statutory power, a statutory right to make written representations directly to Parliament on any representations on matters that appear to them or either of them, to be matters of importance relating to the judiciary, or otherwise to the administration of justice in Gibraltar. That happens by sending them to the Minister who is obliged to lay them before Parliament at its next meeting following their receipt by him. Further, clause 5 gives the President of the Court of Appeal and the Chief Justice a statutory right to make representations to the Minister and the Government on any matter that appears to them or either of them, again to be matters of importance relating to the judiciary.

Mr Speaker, these are the first five clauses which introduce, as I say, unprecedented statements in statute law in Gibraltar, enshrining, in statute, principles which of course everybody in any case takes for granted.

Which brings us to the provisions of clause 6 which is the clause that appears to be exercising different people in different measures. This is the provision in clause 6(1) which says, "The President of the Court of Appeal holds the office of President of the Courts of Gibraltar". The President of the Court of Appeal of course is the most senior Judge of Gibraltar's judicial system. He is the most senior Judge in the most senior court of Gibraltar's own judiciary and it seems, therefore, entirely

appropriate that the President should hold the office of presidency of the courts generally of Gibraltar. Sub-clause (2) says, "The President of the Courts of Gibraltar is entitled to sit in any of the following courts - The Court of Appeal; The Magistrates' Court", the original draft of the Bill attached to the consultation paper, Mr Speaker, also listed the Supreme Court but, for example, the Court of Appeal Judges themselves, the Bar Council, the Additional Judge in their responses pointed out to the Government that whilst that sounded like a good idea it was constitutionally difficult because there was a provision in the Constitution that appeared to exclude the possibility of a Court of Appeal Judge sitting in the Supreme Court. It could have been dealt with in another way but the Government preferred just to remove that right and the President of the Court of Appeal is quite happy with that. Then we come to sub-clause (3) which is the one that all the fuss is being made about. It says, "As President of the Courts of Gibraltar he" – that is to say, the President of the Court of Appeal – "has overall responsibility - (a) for representing the views of the judiciary of Gibraltar to Parliament, to the Minister and to the Government generally; (b) for the maintenance of appropriate arrangements for the welfare, training and guidance of the judiciary of Gibraltar within the resources made available by the Government; "and (c) for the maintenance of appropriate arrangements for the allocation of work within courts." Mr Speaker, the Chief Justice, so that the House is aware of his position, the Chief Justice objects and says it has possible constitutional implications and "contractual implications" for him, whatever that might mean. He objects to the President of the Court of Appeal having overall responsibility for that. The other consultees, including the much maligned Bar Council, indeed including the Court of Appeal Judges themselves, pointed out to the Government sensibly, courteously and in conventional process that they thought that it was, in practice, inconvenient for there not to be somebody resident in Gibraltar with day-to-day responsibility for these things because, after all, whilst it was all right, the Court of Appeal Judges for example told me, whilst it was all right for the President of the Court of Appeal to have overall responsibility, given that he did not live in Gibraltar it appeared to them more

sensible that there should be somebody in Gibraltar albeit subject to the overall responsibility of the President of the Court of Appeal as President of the Courts of Gibraltar with which, by the way, they had no difficulty, that there should nevertheless be somebody locally resident who had day-to-day responsibility for the Supreme Court and Courts below the Supreme Court and the Government accepted that advice which was proffered to the Government not just by the President of the Court of Appeal and the other Justices but indeed by Mr Justice Dudley and by Stipendiary Magistrate Pitto and indeed by the Bar Council itself. Therefore the Government introduced into the Bill sub-clause (4) which reads, "Subject to subsection (3)" – that is, subject to the President's overall responsibility – "for the Supreme Court and all lower courts the Chief Justice shall have direct day-to-day responsibility for the matters set out in subparagraphs (b) and (c) of subsection (3)". I will remind hon Members what they were, "(b) for the maintenance of appropriate arrangements for the welfare, training and guidance of the judiciary of Gibraltar within the resources made available by the Government; (c) for the maintenance of appropriate arrangements for the allocation of work within courts." So the regime created by this Bill is that the President of the Court of Appeal has overall responsibility but in relation to the Supreme Court and/or lower courts, the Chief Justice has day-to-day responsibility for those matters in his and lower courts. And, of course, in respect of (a), the third function of the President about "representing the views of the judiciary of Gibraltar to Parliament, to the Minister and to the Government", I have already explained to the House when I was taking them through clause 5 of the Bill, that both the President of the Court of Appeal and the Chief Justice had the statutory right and power under clause 5 to make representations to the Parliament in writing by having documents laid in the Parliament and also making written representations to the Minister and to the Government. So the position is in respect of all three functions of the President of the Court of Appeal, the Chief Justice has them in respect of the Supreme Court and lower subject to the President's overall responsibility. I should say to the House that the Chief Justice remains dissatisfied with that position and I

should say also to the House that the Government reject the views of the Chief Justice as do other consultees including the Judges of the Court of Appeal who have confirmed to the Government that they see absolutely nothing wrong or improper with this arrangement.

Mr Speaker, clause 7 sets out an oath which for the first time – well obviously for the first time we have never had a Minister for Justice before so it would be for the first time – an oath that the Minister for Justice has to take and this is an oath that he has to take at the very next sitting of the House after he is appointed, and it is an oath that has to be administered by you as Speaker and it is in the form either of an oath or of an affirmation and it reads, “I”, - in the case of the oath – “do swear that in the office of Minister with responsibility for Justice, I will respect the rule of law, defend the independence of the judiciary and discharge my duty to ensure the provision of resources for the efficient and effective support of the courts for which I am responsible, so help me God”. That is also a replication of the situation in the United Kingdom. So, Mr Speaker, at the next sitting of the House after this Bill becomes law, unless I designate somebody else as Minister for Justice before then, then you will have to administer to me an oath in those terms.

Clause 8, Mr Speaker, creates a statutory duty on the Minister for Justice to ensure that the Courts are provided with such court houses, offices, other accommodation, staff and other resources as the Minister thinks are appropriate for the Courts to carry on their business. That is the language taken lock, stock and barrel exactly from the United Kingdom Act, that is precisely the articulation of the statutory duty which appertains to the United Kingdom’s Minister for Justice.

So that is Part 2 of the Bill which does little more, despite the kafuffle that it appears to be generating, makes certain very welcome declarations of principle which everybody, including the Chief Justice by the way whom you have already heard me quote him to say that he thinks that the Bill has much to commend it, have welcomed. Then there is this clause 6 which

is the one that has caused all the kafuffle, about who should be the President of the Courts of Gibraltar, should it be the President of the Court of Appeal or should it be the Chief Justice? Well, the Government believe that it should be the President of the Court of Appeal as the most senior Judge of the most senior Court of Gibraltar’s own judiciary and only the Chief Justice, amongst all the Judges whose opinions have been expressed to the Government, considers that that is improper and certainly nobody has gone so far, I suppose implicit, in statements by more senior Judges to the Chief Justice that there is nothing improper in this is also the value judgement that it does not constitute a rape of the Constitution, that it does not constitute a rape of the office of the Chief Justice nor of the Chief Justice’s contract which is what Mrs Schofield has described this clause to be.

Part 3 of the Bill deals with the establishment of the Judicial Service Commission. The hon Members will be aware that under the Constitution there is established a Judicial Service Commission so we are not establishing it by this Bill, it is established by the Constitution, it already exists, members of it have already been appointed pursuant to the Constitution and that the Constitution also sets out certain other things in relation to it. But, of course, the Constitution does not fill in the nitty gritty and there was a need for primary legislation in the form of this Bill and that is what Part 3 of this Bill does, to flesh out those constitutional provisions.

The two sub-clauses of clause 9 are in discharge of undertakings that the Government gave to the Bar Council at the time of the Referendum on the Constitution where there was also much said from certain judicial quarters about whether it was proper or improper. Well, again, I will not stray into that but in the context of that debate the Bar Council sought and obtained from the Government an assurance that at least one member of the Commission would be a lawyer and also that the appointments to the Judicial Service Commission would be for a specified term and not at the whim of the appointer. So sub-clause (1) in discharge of that assurance given to the Bar

Council says that, "At least one of the appointed members shall be a person who is qualified to practice as a barrister or solicitor in Gibraltar and who has been so qualified for at least 15 years". The Government are committed to using one of its two nominees to the satisfaction of this clause and as the House may already have heard, it has given the Government enormous pleasure to use it to designate Mr James Neish, Chairman of the Gibraltar Bar Council, to be one of its nominees to the Judicial Service Commission. I use the word nominee loosely, actually all appointments to the Judicial Service Commission are actually appointments by the Governor but he has to appoint two of them on the advice of the Chief Minister and therefore, in respect of two people he has to appoint the people that the Government advise him to appoint. In the case of the term for which such persons are appointed, "Each appointed member" – sub-clause (2) goes on to say - "shall be appointed for a period of three years, and may be re-appointed". That also was an assurance given to the Bar, that they would be for a specified term and I have moved a secretarial amendment, Mr Speaker, the figure "(2)" has dropped out of the print and I have moved an amendment to restore it.

Clause 10 has provisions setting out the circumstances in which appointed members, that is to say, members of the Judicial Service Commission can be removed from office and the position is that unless they resign of their own volition, they may not be removed except on the advice, in other words, they cannot be removed unless the Specified Appointments Commission, which is a separate constitutional commission, advises the Governor to remove them and then they can only advise the Governor to remove members of the Judicial Service Commission for the four reasons specified in sub-clause (3) of Clause 10, that he, "has failed without reasonable excuse to discharge the functions of his office for a continuous period of at least six months; has been convicted of an offence; is an undischarged bankrupt, or is otherwise unfit to hold his office or unable to discharge its functions". I hasten to repeat that that is not removal of Judges from the office of Judge, that is removal

of members of the Judicial Service Commission from the office of Member of the Judicial Service Commission.

The Chief Secretary may designate any public officer to be the secretary of the Commission and the Chief Secretary is required to provide such other logistical and administrative support as it may require to discharge its functions, that is Clause 12.

Clause 13 makes the expenses of the Commission a charge on the Consolidated Fund.

Clause 14 provides for certain mechanisms for the conduct of business by the Judicial Service Commission so it says, there has to be ten days' notice of meetings to all members unless the Chairman certifies that the business is too urgent in the public interest, that it cannot wait ten days in which case he can shorten it to five. If the Chairman, who is the President of the Court of Appeal, is unable to attend any meeting of the Commission, the Chief Justice shall act as Chairman for that meeting, and in the absence of the Chief Justice the members there present shall select a Chairman for that meeting. There are provisions there to allow the Judicial Service Commission to meet through teleconference facilities and also to take decisions on a round robin paper basis but that is subject to certain conditions, most importantly that no decision shall be taken by this mechanism if at least two members object and that all documents and information relevant to the decision have been circulated beforehand. There is a quorum, the first time a meeting convenes it cannot take place unless at least one, of the Chief Justice or the President of the Court of Appeal are present, but if neither are present the meeting takes place seven working days later and at that meeting whoever is present constitutes a quorum.

The communications of the Commission are privileged, that is clause 15.

Clause 16 gives the Judicial Service Commission power to conduct examinations and to appoint boards, in other words, to

act through boards rather than through the whole Commission in the conduct of examinations but not obviously to make the ultimate decision, that has always got to be made by the Commission in full.

Members of the Commission have the same immunity from suit as is enjoyed by, for example, any Magistrate in the exercise of his duties in the Court.

There are penalties and offences created for providing false information to the Judicial Service Commission in connection with any application made to it, that is Clause 18.

There are offences in clause 19 relating to publication and disclosure of information relating to the business of the Commission.

Clause 20 provides that no prosecution can be brought under these sections without the fiat of the Attorney General.

That is Part 3 of the Bill which deals with the Judicial Service Commission and fleshes out the provisions relating to it in terms of how it conducts its business by adding to what the Constitution provides.

Part 4 of the Bill deals with appointments to judicial offices. Under the Constitution all appointments of judicial offices are by the Governor but not, as I said earlier, making his own decisions in his own discretion. He can only make appointments on the basis of what is advised to him, recommended to him, by the Judicial Service Commission and he cannot say, "thank you for your advice but I want to appoint somebody else", he can only make appointments, he can only exercise powers in respect of discipline, he can only exercise powers in relation to termination of judicial appointments, if and only if he is advised to do so by the Judicial Service Commission. So the power, whilst formally vested in the Governor, is actually really a power of the Judicial Service Commission except in that one provision of the Constitution which came into the public domain at the time of

the Referendum debate, that in certain exceptional circumstances the Chief Justice could disregard the advice of the Judicial Service Commission if the appointment would not be in the interests of the public service. But this did not allow, and this Bill demonstrates it, the Governor to say, "thank you for recommending that particular person, I am going to exercise this power and appoint somebody else". No, all he can do is say to the Commission, "I do not want that person on these very exceptional grounds", which the Governor and the British Government have already said are very exceptional, in which case the Judicial Service Commission recommends another. Not even that clause, exceptional as it is and limited in its application as it is to a very narrow circumstance, not even that constitutional power entitles the Governor or anybody else to make discipline or terminate any judicial office holder except and unless it is on the advice of the Judicial Service Commission.

Clause 22 says that anybody recommended for judicial appointment must be on merit and of good character, it seems a stupidly obvious point but it is included in the UK Constitutional Reform Act and we thought we would throw it in.

Clause 23 gives the Minister for Justice the power to issue guidance about procedures for the performance by the Commission of its functions of identifying persons willing to be considered for selection, and assessing such persons for the purposes of selection. In other words, procedural things, for example, it might be the policy of the Government that adverts should be placed not just in the United Kingdom but in all Commonwealth countries. It might be the policy of the Government that every applicant should be interviewed and that every applicant should get the opportunity to explain, these are things, in no circumstances of course can the guidance under this Act relate to the decisions that they make and the choices that they make. It is not the Minister by himself that can issue and promulgate these guidelines.

Clause 24 says that “Before issuing any guidance the Minister must - (a) consult the President of the Courts of Gibraltar and the Chief Justice”, and “(b) after doing so”, the Minister must “lay a draft of the proposed guidance in the Parliament”. Those guidelines do not become effective unless and until they have been approved by a resolution of Parliament within 40 days of them being Tabled. So the Minister can draw up the guidelines, can propose the guidelines to this House but the Minister’s guidelines do not become effective at all, ever, unless they are approved in this House.

There are provisions about how vacancies must be filled and what the Commission has to do when there is a request for a selection, that is clauses 25, 26 and 27. Then clause 27 talks about the selection process, in other words, what must the Commission do mechanically when there is a vacancy, for example, to be filled. Well, clause 27 says that when the Commission receives a request to fill a vacancy, they have to establish a “panel” which “may comprise the Commission” as a whole “or a board appointed by it under section 16. The panel must – (a) determine the selection process to be applied; (b) apply the selection process, and” then “(c) make a selection or selections for a recommendation accordingly”.

They must then, under clause 28, submit a written report from the Commission to the Governor and to the Minister with their recommendation and advice to the Governor.

Clause 29 sets out what the Governor’s options then are and they are what I have just said, that he has to accept the recommendation and appoint the person recommended by the Commission or he can exercise his limited power, under section 57(3) of the Constitution, and require the Commission to make another recommendation to him.

Part 5, relates to judicial conduct and discipline. It is, of course, not true anywhere in Europe or anywhere in the democratic world that the judiciary are not accountable to anybody for the quality and nature and propriety of their behaviour. It is therefore

appropriate that we should now catch up with the rest of the democratic world, including the United Kingdom from whom these schemes are borrowed, to establish a code of judicial conduct and ethics and the Bar Council felt very strongly that there should be these provisions in our legislation and the Government agree entirely with that view. But it is not this code of judicial conduct and ethics, in other words, the rulebook of behaviour of Judges, is not something that the Government or the Minister for Justice will draw up.

The procedure created by clause 32 of the Bill is that the President of the Courts of Gibraltar, that is to say, the President of the Court of Appeal, in consultation with the Chief Justice and the Chairman of the Bar Council, they draw up and propose to the Judicial Service Commission a draft code of judicial conduct and ethics. They then submit that to the Judicial Service Commission. The Judicial Service Commission considers the draft code, the code drawn up in draft by the Judges themselves and the Chairman of the Bar Council, and introduce whatever amendments or modifications the Judicial Service Commission wants to introduce and then it all comes up to this Parliament which has to approve or disapprove what is then a text that has originated in the pen of the President of the Court of Appeal, that has gone to the Judicial Service Commission for their agreement and modification or amendment if they see fit and that then comes to this Parliament that has to approve it, and unless and until this Parliament approves it, then it does not become effective. So it can be seen that it is very well balanced, where no institution gets the ability to drafting this code of conduct to decide how the Judges should behave and how the Judges should not behave, because the original draft is the draft of the Judges themselves and nobody else can initiate the drafting process. Then it goes to the Judicial Service Commission which is an independent constitutional body, and then it comes to this Parliament not for further modification, no politician can right anything into that document all we have to say collectively as a Parliament is “Yes, we agree with that” or “No, we do not agree with that” but we cannot amend it in any way ourselves. Sub-clause (6) says “In considering its advice to

the Governor as regards any disciplinary matter relating to any person holding a judicial office, the Commission shall have full regard to any Code for the time being applicable to that person". I think this is a wholly welcome regime.

Mr Speaker, what is the regime for disciplining the judiciary? It has to be said that and borne in mind as hon Members hear what I am about to say on this, that certain aspects of discipline of the judiciary are contained directly in the Constitution and therefore we are not free in this House to create a different regime or to modify that regime. For example, under the Constitution no senior member of the judiciary, which basically means the President of the Court of Appeal, the members of the Court of Appeal, the Chief Justice, the other High Court Judge, no member of the senior judiciary can be removed from office other than by quite a complex procedure which involves the establishment of a tribunal and then it goes to the Privy Council and that sort of palaver. So that regime is in no sense derogated from or amended or affected by this regime because it cannot because we are not free in this House by legislation to modify the purport of the Constitution. The Constitution, however, is silent and therefore we are free to introduce a regime in this House about disciplinary procedures at large for the junior judiciary, that is to say, effectively from Magistrate down and indeed other disciplinary action against the senior judiciary short of termination – a reprimand or a suspension or something like that. The Constitution does not say that the sort of palaver, the complicated system provided for applies to that aspect of disciplining even of the senior judiciary. So what regime does this Bill create to fill those vacuums left by the Constitution?

The first provision is set out in clause 33 which relates to termination of office and discipline of junior judicial officers, effectively from Magistrate down. In sub-clause 33(1) it says, that "subject to the provisions of section 35", – section 35 is that the grounds for terminating the appointment of junior judicial holders are the same as the Constitution requires of the senior judicial holders, so one cannot sack a junior judiciary post holder except on the grounds that senior judicial post holders

could be sacked under the Constitution so subject to that rule, which is contained two sections further on, "the Commission" – the Judicial Service Commission – "shall advise the Governor in relation to the termination of the appointment and any disciplinary matter relating to any junior judicial office holder". In other words, the Governor cannot discipline without the advice of the Judicial Service Commission and must discipline in accordance with the advice of the Judicial Service Commission junior members of the judiciary. Then the rest of clause 33 sets out the process by which the Judicial Service Commission goes about considering any complaints, assessing any alleged judicial misbehaviour, advising the Governor and what the Governor can or cannot do with the report which is exactly what I said to the House earlier about what he could or could not do with the advice of the Commission in respect of appointments.

Then section 35 that I have just referred to are the grounds upon which the Commission can advise the Governor to remove from office a junior judicial office holder and I have already said that those are the same grounds as are recited in the Constitution as applicable to the removal of a senior judicial office holder.

The Bill then goes on to create a regime for the disciplining of other members of the judiciary. So clause 36 says, consistent with all that I have just said to the House, that "the Commission shall not advise the Governor to remove from office the holder of a senior judicial office". Why? Because that is not the regime the Constitution creates for the removal of a senior judicial office holder. So it is against the law for the Commission to advise the Governor to remove a senior member of the judiciary. What the Commission can do and indeed must do is advise the Governor whether the constitutional mechanisms for removing senior members of the judiciary should be invoked or not. So "the Commission shall advise the Governor whether the question of removing the holder of a senior judicial office from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour should be referred to a tribunal in accordance with

section 64(4) of the Constitution, and if so, whether the senior judicial office holder should be suspended from performing the functions of his office upon such reference". In other words, in the case of senior judicial post holders, the Commission does not decide and advise the Governor to remove the Chief Justice or the President of the Court of Appeal or the Additional Judge of the High Court. What they can and must do is to say, "Your Excellency, we advise you to invoke the constitutional procedure for removing such senior office holders from office" which is the procedure in section 64(4) which then runs its course and it involves the establishment of a tribunal et cetera.

So what are the disciplinary powers then that the Governor can exercise on the advice of the Judicial Service Commission? These are in clause 37 of the Bill. Firstly, in the case of junior judicial office holders, he may give formal advice or formal warnings, or formal reprimand for disciplinary purposes. Secondly, in the case of junior judicial office holders, he may suspend a person from a junior judicial office for a period during which any of the following things apply – the person is subject to criminal proceedings; the person is serving a sentence imposed in criminal proceedings; the person has been convicted of a criminal offence, and in any of the above circumstances, it appears to the Governor acting with the agreement of the President of the Courts of Gibraltar that the suspension is necessary for maintaining of confidence in the judiciary. That is to say, even when the Governor is advised by the Judicial Service Commission to suspend a junior judge, the Governor cannot suspend a junior judge unless the President of the Courts of Gibraltar, that is, our most senior Judge, the most senior member of the judiciary, agrees with the Governor that the suspension is "necessary for maintaining of confidence in the judiciary". Thirdly, the Governor may terminate the appointment and remove from office a person holding a junior judicial office. Sub-clause (3) speaks of senior judicial office holders and says "the President of the Courts of Gibraltar, acting after consultation with the Judicial Service Commission, may exercise the powers set out in subsection (1)(i) and (ii) in relation to the holder of a senior judicial office". In other words, it

is not the Governor acting on the advice of the Judicial Service Commission, it is the President of the Courts of Gibraltar himself, acting after consultation, which means it is the discretion of the President of the Courts of Gibraltar who exclusively, in other words, the most senior judge himself who in the case of senior judicial office holders, is the only person who may exercise the power to give a formal warning, formal advice or reprimand for disciplinary purposes or to suspend a member of the senior judiciary.

Part 6 of the Bill then obliges the Commission to advise the Governor in respect of certain other matters which under the Constitution the Governor cannot act on. This is one of the novelties of this new Constitution. Before, the Governor would be advised by the Public Service Commission or some other body, but he could reject that advice and he could appoint whomever he wanted and therefore there was no blockage on the system because if the Public Service Commission failed to discharge its duty to advise him, the Governor could still appoint. But, of course, under the new Constitution, the Governor cannot act except in the context of and upon receipt of and then in accordance with the advice of the Judicial Service Commission. So if the Judicial Service Commission failed to give him advice, then there is no mechanism under our Constitution that enables the appointments to be made and therefore this Bill makes it mandatory for the Judicial Service Commission to proffer the advice. It obviously does not tell them what the advice should be but they cannot just sit back and proffer no advice because the consequences of the Commission sitting back and proffering no advice is that no appointments can be made and that is one of the big differences between this new Constitution and the old Constitution in respect of these public appointments.

Clause 42 says the Commission shall advise the Governor in relation to the matters specified in the following sections of the Constitution – section 63(1) appointment of an Acting Chief Justice when the Chief Justice is away from Gibraltar; section 63(2) appointment of Acting judges when it is necessary to do

so; section 63(3) appointment of an Acting President of the Court of Appeal; section 63(4) appointment of an Acting Justice of the Court of Appeal; section 63(5) the continuation and terms of Acting Judge of the Supreme Court or Court of Appeal, and finally section 64(1)(c) the circumstances in which a judge can carry on sitting after he has vacated his office to finish off cases that he has pending. All those are sections of the Constitution, without the advice of the Judicial Service Commission, the Governor cannot act and therefore there is this statutory compulsion on them to act. Mr Speaker, I commend the Bill to the House and look forward to responding to any issues of concern that Opposition Members may have.

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

HON F R PICARDO:

Mr Speaker, let me preface my intervention by saying that we on this side of the House are not comfortable at all with the concept of a Minister for Justice although, of course, whilst the Ministry exists it will be necessary to shadow it and at the moment that responsibility is deposited in me by the Leader of the Opposition. This Bill for a Judicial Service Act is clearly an important piece in the legislative jigsaw puzzle that follows from the new Constitution. The new Constitution, is that document which the Chief Minister has been at pains to tell us he does not want to force to have intercourse with it. It is a Bill that does a number of important things which are to be welcomed and that is I think accepted across the board. The first is that it follows in great measure but with, I think, some unfortunate and ultimately damning omissions, the framework of the UK's Constitutional Reform Act 2005. The second, and I echo what the Chief Minister has said in this respect, is that it enshrines the concept of the rule of law and the independence of the judiciary in legislation. The third, is that Ministers are expressly singled out and fixed with specific responsibilities and duties to uphold that independence. I think that has always been the case by convention but it is now explicit in our laws. What a pity then

that this Bill will likely not have the benefit of unanimous support across the House because of what, I think appears to be at least, frivolous deficiencies in the way that it has been drafted. There are a number of issues which have led the Opposition to decide reluctantly that we cannot support this Bill.

All of them revolve ultimately around clause 6 of the Bill and whether it sounds reluctant or not, it is. The effect of this clause as it is presently drafted is to make the President of the Court of Appeal the President of the Courts of Gibraltar. President, in our view, is modern nomenclature for head of the Courts and as a result of this clause the President of the Court of Appeal will, in effect, and I think this has been confirmed by the tenure of the Chief Minister's submission, the head of the judiciary in Gibraltar. There has been a lot of activity and comments surrounding this piece of legislation from the moment that the Government sent it out for consultation and the Chief Minister has taken us through some of that. I do not think it is relevant but I think it is relevant to comment that it is a piece of legislation which is exciting interest beyond the walls of this Parliament. Today, what we are supposed to be doing here is to scrutinise the principles behind the Bill, not allow ourselves to get drawn into the controversies that have arisen outside and to understand the consequences of what we as legislators are being asked to do because that is what we are going to do. We are going to make this Bill a law. Despite the controversies outside of this House which have raged and the small 'p' political issues that have arisen and despite our exchanges earlier, I would ask that the Government and the mover of the Bill in particular, who was a senior member of the Bar before he left to take on the post that he has at the moment, should consider constructively the reasons why we are unable to support the Bill and I am going to take him through them.

Let me as a result turn to the effect of clause 6. At the moment, before this Bill and under the previous and present Constitution until now, the head of the judiciary is the holder of the office of Chief Justice. That much, Mr Speaker, I am sure is not controversial, indeed I am fortified in that view by the fact that

the Government's own website states as much in the sixth paragraph of the text that they provide on the judicial system. The paragraph states as follows: "In the Supreme Court criminal trials are by jury whilst in civil cases judges usually sit alone. There are two judges, one of whom is the Chief Justice and so the head of the judiciary", that is what the Government's website says. This has been the position in Gibraltar, as I understand it, for approximately 175 years. This is not a Parliament on either side that is simply for keeping things as they are simply because they have been. In other words, Mr Speaker, we as a Parliament of legislators do not simply want to keep things as they were. We want to see them as modern and efficient as possible especially in relation to court services for the purposes of ensuring that all those who have to go to law, to whatever division, get the best possible service available. That must mean, that when we make this Judicial Service Act, if we do overturn 175 years of practice, we overturn it for the better and we overturn it for the better conscious of what we are about to do. We need to analyse the legal consequences of the legislation that we are about to be asked to make and having made that assessment for ourselves to now, there is nothing that persuades the Opposition that it makes sense to support clause 6 of this Bill as presently drafted for these reasons. Nothing that the Chief Minister has said has suggested that there is any consideration given to the change of the job description of the holder of the post of Chief Justice. In that respect let us differentiate between an individual holding a post and the job description of the post. The consequences on an individual holding a post of this Parliament changing the legislation that describes the job, if I cannot put it in another way, is not one that is going to stop this Parliament from legislating, there are ways of dealing with that in other ways. But there are constitutional issues, in our view, that arise. The new Constitution and the old Constitution did not set up the office of Chief Justice, that office was a pre-existing office. As a result, when one looks at the existing Constitution and when one looks at the old Constitution in sections 15 and 16 previously and now Article 16, there is a first reference to the Chief Justice as the Chief Justice of Gibraltar. There is no introduction to the post of

Chief Justice in the Constitution like there is, for example, of the Attorney General. The Constitution says "there shall be an Attorney General for Gibraltar", it even creates your post, Mr Speaker, "there shall be a Speaker". We believe that as a result the job description of the post holder of Chief Justice is pre-existing the Constitution and it is something that we are going to change as a result of this Bill, something which I think we may not be able to change effectively. Secondly, the decision to transfer the leadership of our judiciary to the President of the Court of Appeal will be impracticable for reasons more than just the fact that he happens to be 1500 miles away for most of the year. The Bill as published is different in this respect to the Bill that was sent out to consultation and that as the Chief Minister has mentioned, has been seen by more than just the people who he sent it out to consultation for. In fact, under this Bill, for the reasons perhaps that the Chief Minister has set out, most of the day-to-day running of our judiciary will remain where it is today, namely, in the hands of the Chief Justice. So why is it that there is such a desire on the Government to see the headship of our judiciary moved if most of the day-to-day responsibilities are to stay where they are? The impracticability of having done the opposite, having obviously been made manifest to the Chief Minister, by enough of the consultees whose views he takes on board to persuade him to change the Bill. Without wishing to disrespect any of the very distinguished judges who have graced the benches of our Appellant Courts and they are, by dint of the fact that they are very experienced also very senior and advanced in ages, none of them would be able to fulfil the constitutional requirements to serve as Chief Justice because the Constitution provides an upper age limit for those who might serve as Chief Justice all of which are members of the Court of Appeal past, namely, they are more than 72 years old. So, the decision of the Government to transfer the headship of our judiciary to the President of the Court of Appeal is to transfer it to an individual in retirement from his judicial service in the UK, over the age of 72, 1500 miles away from Gibraltar or even further if they are also serving in other Appellant Courts, in a manner which we think will not deliver greater efficiency to the running of our judicial services.

Indeed, Mr Speaker will be aware as I am, that some of the members of our Court of Appeal are not just engaged as judges in other jurisdictions in other Courts of Appeal, they are also in practice as very senior arbitrators and very senior mediators, they have busy practices in their retirement. So potentially the head of our judiciary now, and it may not seem important to some of those sitting opposite, is going to be at least 72 years old, he is going to be engaged in the practice of an arbitrator or mediator, he may be the president or a member of another Court of Appeal and he is not going to be always in Gibraltar. I hesitate to be persuaded that this adds efficiency to the running of judicial services in Gibraltar, however eminent and however senior the individuals who may take the post may be. Thirdly, it seems that we all sing from the same hymn sheet about bringing an end to colonialism, although sometimes it looks like we are singing different verses and we only come together to sing the chorus on the 10th September. But I am at a loss to understand why it is that we are seeking to place at the head of our judiciary a person in London or elsewhere in the United Kingdom, wherever this particular retired English Court of Appeal Judge may live, when we are supposed to be in the process of decolonising Gibraltar. Why, in this modern, modernised or whatever it is that the Chief Minister is choosing to describe our constitutional status as today, why are we exporting the headship of our judiciary to a non-resident? If for 175 years we have had the head of our judiciary resident in Gibraltar, why is now the time to export that office to the UK? Fourthly, if the head of our judiciary is to be a Court of Appeal Judge then our Court of Appeal Judges being recruited from retired senior English Court of Appeal Judges will never be a Gibraltarian. The head of the judiciary in Gibraltar as a result of this clause 6 is not going to be a Gibraltarian. Are we to commence a period of judicial colonisation when we are supposed to have brought about the end of political colonisation? Fifthly, the Judges of the Court of Appeal do not enjoy real security of tenure, that is clear and established beyond peradventure, they are judges appointed on fixed term contracts for specific periods of time. There is no doubt in constitutional theory that judges appointed in that way, under

the xxxxxx of the European Court of Human Rights, do not enjoy security of tenure and that falls short of the ideal of judicial independence and yet the action proposed by the Government will make just such a judge the head of our judiciary. I am really at a loss to understand, again, how this in some way infuses this Bill with greater efficiency for those who are being provided with services by our courts. Sixthly, the Chief Minister has referred to this question of the head of our judiciary being the most senior judge of our courts and therefore the President of the Court of Appeal. Well, in the UK the most senior judge is the President of the House of Lords, yet he is not the head of the UK's judiciary, the head is the Lord Chief Justice.

The Chief Minister will know because he has received one too, that we have received a copy of a letter from the Commonwealth Magistrates' and Judges' Association addressed to the Chief Justice that has been made available to the Leader of the Opposition. I want to deal with the issues that are raised in that letter, I do not know whether a copy was also made available to you. The CMJA have been able to establish that although most Commonwealth constitutional documents are silent on who is the head of judiciaries in each jurisdiction, by their very provisions it is assumed by all parties in each of those jurisdictions that the Chief Justice is the head in each of them. There have been some exceptional cases, not necessarily examples to be followed where Presidents of Republics are heads of the judiciary such as Maldives or Cameroon and until recently the Lord Chancellor was the head of the judiciary in England and Wales and that was often criticised. But in all jurisdictions in the United Kingdom now, for example, the head of the judiciary is the Lord Chief Justice or the President of the Judicature. Indeed, the CMJA tell us that there are a number of Commonwealth countries and territories in which a non-resident Chief Justice is head of the judiciary but it is still the Chief Justice that is the head of the judiciary. These territories are set out in the letter from the Commonwealth Magistrates' and Judges' Association letter. Those listening will not have the benefit of the letter so I will read them out. In the Eastern Caribbean which is composed of nine countries, at its head they

have the Chief Justice of the Eastern Caribbean Supreme Court; the Chief Justice of St Helena and the Falkland Islands are both British Circuit Court Judges which circuit extends to these islands when they visit twice a year; in Tuvalu a Justice Gordon Ward, although President of the Court of Appeal of Fiji, retains duties as Chief Justice of Tuvalu and is not a resident of Tuvalu; in the Cook Islands the Chief Justice is resident in New Zealand and His Honoured Judge Robin Millhouse is Chief Justice of Kiribati but visiting Chief Justice of Nauru. Apart from those examples, which might cause great mirth on the Government, everywhere else the Chief Justice is the head of the judiciary and he is resident. In these, the Chief Justice is the head of the judiciary but he is not resident. There may be Presidents of Courts of Appeal who are head of the judiciary but as far as the Commonwealth Magistrates' and Judges' Association have been able to find, these were only Presidents of Courts of Appeal who are resident in the host country. So, for example, in Cyprus where the Chief Justice is President of the Supreme Court and head of the judiciary but the only example that the Commonwealth Magistrates' and Judges' Association can find so far of a Commonwealth country or territory which has a judge other than the Chief Justice as head of the judiciary is Guyana, where the head of the judiciary is the Chancellor of the Judiciary. However, apparently that post is held under the responsibility of the Chief Justice who is the Acting Chancellor of the Judiciary. In South Africa, the head of the judiciary is the President of the Constitutional Court and not the Chief Justice but the individual who holds the office of President of the Constitutional Court also happens to be the Chief Justice. In Gibraltar, as far as we can see from the operation of Article 16 of the Constitution, all applications for the enforcement of the protective provisions of the Constitution actually go to the Chief Justice, that is the constitutional text, the text that cannot be altered in this House. Further, why are we creating a new officeholder as head of our judiciary who will not be the person who administers, for example, most oaths? At the moment the Chief Justice is responsible for the admission of barristers and solicitors, he swears in Governors, et cetera, that is what the head of our judiciary does today. Under this system, those oaths

will still, unless the Chief Minister moves amendments to those particular pieces of legislation that deals with those things.....
[Interruption] Thank you, I have got plenty other ideas which might be good. The oaths will be administered by the Chief Justice who will not by then be the head of our judiciary. All of these things show that that proposal is coming from the Government to change who the head of our judiciary is, is not sensible.

Finally, in relation to clause 6, clause 6(2) in my submission, which the Chief Minister has addressed, shows the constitutional quagmire that is being created by trying to introduce the President of the Court of Appeal as head of our judiciary. Why? Because section 60, subsection (2) of our Constitution provides who can sit in our Supreme Court and we cannot alter that. As the Chief Minister has said, as a result of that constitutional provision, the Bill has had to be amended from the Bill that went out to consultation to the Bill that has been published. What changes have been made,? Very simple. In the Bill in subsection (2) of section 6, the words "the Supreme Court" have been left out. That simply shows us that the President of the Court of Appeal as the head of our judiciary should not be the head of our judiciary because he cannot sit in the Court immediately below him because the Constitution prevents him from doing so. That is the muddle that this proposal is creating. So, the head of our judiciary after this Bill, will be able to sit in his own Court, he will be able to sit in the Magistrates' Court and the Coroner's Court but he will not be able to sit in the Supreme Court. How can we call that progress? The head of our judiciary at the moment, the Chief Justice, is an ex-officio member of the Court of Appeal so he can sit in that Court, is obviously a member of the Supreme Court by dint of section 60(2) of the Constitution and he can sit in the Magistrates' and Coroner's Courts which are Courts below him. Again, Mr Speaker, I am at pains to see progress here. So, for all of those reasons it is our view that there is no good reason to change who the head of our judiciary is. I would wish that the Chief Minister take the points we have raised, digest them and try and come back to us with something

sensible but from the tenor of the debate that we have had up to now, it seems to be that that is going to be unlikely. I am not fortified, but one of the things that the Chief Minister said which was, of course, “the members of the Court of Appeal have all told me that this is perfectly fine”. Well, he did not tell us that anybody else had told him that this was perfectly fine.....
[Interruption] If the Chief Minister is saving things up his sleeve for his reply perhaps I will have the opportunity to reply to any new matters that he introduces. But I am not surprised that the members of the Court of Appeal who are about to be appointed heads of our judiciary, in other words, the guys who are about to receive the new power should be pleased to see it coming their way and should have told the Chief Minister that it is all very good and that he should carry on as he is proposing.

There are other aspects of this Bill that also should be addressed. Clause 8(1) has been brought to the attention of the Chief Minister by the Bar Council. As a practising barrister I am a member of that Council, although I do not sit on its executive at the moment and Mr Speaker, so are you. The Bar Council in its submission to the Chief Minister told the Chief Minister that the words “the Minister thinks” where they appear at the end of that sentence, are inappropriate and should be removed. Why Mr Speaker? Well, for those listening that section reads as follows: “The Minister” - that is the Minister for Justice – “must ensure that the Courts are provided with such court houses, offices, other accommodation, staff and other resources as the Minister thinks are appropriate for the Courts to carry on their business”. The Bar Council has suggested that whilst the words “The Minister thinks” are in that sentence, there is no objectivity to be had and they are of course right. I agree with the Bar Council although I know that the Chief Minister does not, that those words should be removed so that an element of objectivity is introduced into that sentence and into that clause.

There are parts of the Constitutional Reform Act which are totally irrelevant to Gibraltar. Just by way of visual show this is the Constitutional Reform Act minus some of its schedules because they do not all fit in one lever arch file. This is our

Judicial Service Act and I think it does a pretty good job except for the parts that I think and I have told the House should be changed. So there is no need to replicate a Constitutional Reform Act like the one in the United Kingdom, in order for us to have a good Judicial Service Act in Gibraltar. But there are certain aspects of it, in fact, three sections of it, which I think should have been in our Bill and are not there. Paragraph (3) of Schedule 12 of the UK Act provides that a person must not be appointed as a Commissioner in the Judicial Service Commission if he is employed in the civil service of the state. There is very good reason for that. If a person is employed in the civil service of the state, it could be argued that when he sits on a Commission he does not do so independently. Unfortunately, we have not seen such a provision replicated in this Bill and, in fact, we are all aware of who has been appointed now to the Commission under the Constitution and civil servants have been appointed.

Paragraph 13(b) of Schedule 12 of the UK Act states that the Commissioner cannot hold office for more than ten years in total. I would have thought that that was fairly uncontroversial and that there are enough people to appoint in Gibraltar, that we can rotate them at least every ten years but that is not in our Bill. Both of those provisions, in Schedule 12 of the UK Act serve as guarantees of independence of the Commission and they are absent in our Bill and in our Constitution.

There is a provision in clause 41 of this Bill which has been referred to already, “Prejudice to Her Majesty’s Service” is the heading, Mr Speaker which allows the Governor in the circumstances which the Chief Minister has told the House, to refuse the advice of the JSC in very limited circumstances and then he must act in a particular manner. There is a similar although not identical provision in the UK Act in relation to the actions of the Lord Chancellor, there is one particular difference, which is that the Lord Chancellor is required by legislation to give reasons for his decision and that is not provided for in this Bill. I would have thought it entirely unobjectionable for the Governor to be bound to give reasons for his decisions and for

that to be required under the Bill. In fact, it may be argued that he is required to give reasons for his decisions as a matter of natural justice. But then, of course, as a matter of natural justice in constitutional theory, we have the rule of law and independence of the judiciary but we are taking this opportunity to spell these things out in this Bill.

I sincerely hope that despite some of the bluster that has run parallel to this Bill outside this House, that we should be able to undertake our obligation here to legislate, first of all constitutionally and second, of course, properly with cool heads although, I hesitate to say that I do not see anything to suggest that given the tenor of the Chief Minister's interventions earlier. We must put aside all of the extraneous issues that seem to have inflamed the Chief Minister earlier because if possible we should try to move forward with this Bill with consensus. The reasons why we believe that the head of the judiciary should be the Chief Justice and that we should not make the change to the President of the Court of Appeal are thought out. We believe that it is not in the interest of this jurisdiction or in the interest of Court users to have to rely on a head of the judiciary who is so far away and may be tied up with so many other matters, who is not locally based, who does not understand the characters and all the issues that affect our Courts day in day out. As a result, as a matter of policy, we on the Opposition are committed to ensuring that after the next election, if and when we are returned to Government, clause 6 if not changed today will be changed then to ensure that the head of the judiciary remains the Chief Justice of Gibraltar.

HON J J BOSSANO:

I want to say very little beyond what has been said because my Colleague has put the arguments in respect of this particular thing although, of course, the Bill is about many things other than just clause 6 and the head of the judiciary but since the head of the judiciary is the only controversial issue that has been surfacing constantly, we have taken a policy decision on

this matter in the light of the lack of any reason being given as to why this change is so important or what great benefits there would be for Gibraltar from the change which we would be denied if they were not there. That does not mean, of course, that the motives that other people may impute to the Government are necessarily shared by anybody. I have to say to Government that in Gibraltar people are entitled to say what they feel and what they want and if what they are doing is beyond what they are entitled to do in respect of their right to free speech, then the injured party can take legal action. I do not think they need to hide behind the privilege of the House to address false accusations which can be demonstrated to be false. We do not want this debate to be about something that is not what is before the House which is the general principles of a Bill giving effect to some requirements arising out of the Constitution and we have heard nothing so far that convinces us that it is best for Gibraltar to have an absent head of the judiciary. I do not know how this affects the priority on the protocol list and whether that means that the Chief Justice, if he ceases to be the head of the judiciary, will have the second kind of role as opposed to the first but that has certainly not been adduced as a reason for doing this.

HON CHIEF MINISTER:

There is much that needs replying to. Perhaps I should start by saying just how sorry on this side of the House we all feel that the hon Member should think that we do not have cool heads. We have very cool heads and we make our decisions and we fix our positions by reference to what we think is right and by reference to how that is influenced by people that we consult as reflected in amendments to our position of which, as he has noted, there are several. I have to say to the hon Gentleman that he on the other hand, despite saying that he is nobody's lawyer, has faithfully followed the brief because each and every one of the arguments that we have heard him put today, at least in the first half of his address, are the arguments that are being

put by the Chief Justice, by Mrs Schofield and by the Vox newspaper week after week since February.

HON F R PICARDO:

And by the Bar Council as well.

HON CHIEF MINISTER:

No, not by the Bar Council as well as I will now take him through. Many of the statements that he has made attributing to others views in consonance with the ones that he has just expressed here today are false statements, and I will now take him, as I envisaged in my second reading speech.....

HON F R PICARDO:

Mr Speaker, on a point of order. It is about this time of the year that the Chief Minister forgets your annual ruling that to impute some false motive to somebody is to say that they are lying which you ruled, I think a year or two ago, he should not do.

HON CHIEF MINISTER:

It is like a sixth form debating society. The hon Member opposite must know the difference between being told that something that he has said is false and being accused of lying. Not everybody that makes false statements are lying, it could be innocently false but as he does not think before he leaps to his feet to raise points of order, he must by now have the record of all time in this House for nervously interrupting other speakers by raising specious false points of order. I have not accused the hon Member of lying because I have no evidence of that fact. If I had evidence of the fact I am entitled to accuse him of lying so long as I make myself responsible for the statements. So when I

have evidence that he is lying I will not hesitate to accuse him of that in this House. For now, all I have accused him is of making false statements and before he leapt to his feet I told him that I would demonstrate to him that his statements were false. I do not know what he is complaining about. If Mr Speaker wants to make a ruling.

MR SPEAKER:

I understood the use of the word "false" as "inaccurate" and the Chief Minister has said he is not accusing the hon Member of lying, I think we are clear on that. I think he was referring to "inaccuracy".

HON CHIEF MINISTER:

I am not accusing the hon Member of lying for the reasons that I have explained. *[Interruption]* Well, the hon Members will be aware of that rather amusing incident in the House of Commons where a member got into difficulty for accusing an hon Member of lying and he was directed by the Speaker to immediately withdraw and he said, "Well, of course, Mr Speaker, compelled by Mr Speaker's ruling, I will of course immediately withdraw but if on the way home tonight as I cross the Westminster Bridge, I were to meet the hon Member as he was on his way home, I will have no hesitation in repeating the allegation" which I thought was a masterful way of not withdrawing. But anyway, be that all as it may, the views that he has expressed on almost all the issues about which the Chief Justice or his wife have, of course the Chief Justice and his wife are entitled to their views as the Leader of the Opposition has said. I think that there are aspects about how they go about expressing their views which I think are improper but the views themselves they are perfectly entitled to hold, and I do not say to the hon Member that it is wrong to share the Chief Justice's view or the views of his wife but the hon Member gets very sensitive when I accuse him of being

somebody's lawyer. Then when he next gets up to speak he goes.....

HON F R PICARDO:

If I am I am and if I am not I am not, Mr Speaker.

HON CHIEF MINISTER:

Yes but it is obviously semantic, Mr Speaker, we all know he is not a lawyer because this is not a Court of law, there are no parties, there are no representations and therefore he must by now have sussed that the sort of parody of lawyer means advocate in the argumental sense and not in the Bar sense. If he has not so far worked that out for himself let me tell him that now. Now, of course there is nothing wrong with him sharing the Chief Justice's view or Mrs Schofield's view but does he not think that in the context of his assurance that he was here on no ones brief, that it is extraordinarily coincidental that on each and every one of these views he is on all fours with the views expressed by the Chief Justice on issues on which nobody agrees with him as I will now demonstrate. On issues upon which none of the other consultees agreed with him but the hon Member comes to this House expressing those views, to which of course he is entirely entitled, but then he cannot complain if others in good faith form the view that he is holding somebody's argumentative brief. Otherwise we must all just settle for the mathematical improbability of pure coincidence. It is not impossible but it begins to strain the reins, particularly when one has read all these things in the Vox newspaper.

Now, before we get into the stuff of the Bill, there is one huge contradiction, nothing to do with the Judicial Service Bill, there is one huge political, philosophical contradiction in the hon Member's opening statement. For a political party that is so nationalistic, so much bare our chest, so much maximum self-government, so much take us off the list, so much all of that, to

come to this House to say meekly, "We are not comfortable with a Minister for Justice". Well, in the event that they should ever achieve everything that they go across the Atlantic twice a year to try to achieve at the United Nations, how do they propose to function without a Minister for Justice? Every other independent country has a Minister for Justice, the only reason why we have not had a Minister for Justice until now is because we have been a colony until now but they are not comfortable with it, because I actually think that subconsciously the hon Member is comfortable only being a colony because I do not see how he is going to live with his discomfiture at there being a Minister for Justice if Gibraltar ever achieves the level of decolonisation and delisting to which their party policy aspires. So, in the name of opposing the Government, for the purpose of opposing the Government on this Bill, they actually pour cold water over what has been one of the principal mainstays of the political ideology of the GSLP since the day it was founded. Not the Minister for Justice but the consequences of decolonisation. Well, the hon Member's discomfiture at having a Minister for Justice should not be misinterpreted by anybody to be discomfiture based on there being any doubt about whether it is proper or improper in a parliamentary democracy for there to be a Minister for Justice, because in one form or another every independent country in a democracy has a Minister for Justice and it is not possible to function without one. It was possible to function without one when we had the Financial and Development Secretary, and Governors and other constitutional security blankets, other colonial security blankets, to gang on to but as we grow up and we start doing things for ourselves in much the same way as the rest of the world does it for themselves, this has implications and one of them is that like everybody else we have to have a Minister for Justice. Who he thinks is going to exercise these functions in the unlikely event that they should be elected into office, I do not know, I suppose they will ask the Deputy Governor to carry on doing it, so much for their constitutional colonial bravado.

Mr Speaker, going back to what the hon Member said about the Bill itself, I have to tell him that there is practically no support

from any of the other consultees, practically none, for any of the views that he has expressed. So it is him, the Chief Justice and his wife, even though he has no brief. That is fine, we will all settle for the fact that he just happens to think identically the three of them, there is nothing wrong with that. Let me go through them then. Predictably and indeed understandably, he started off by reference to clause 6 and he started by saying that clause 6 makes the President of the Court of Appeal the President of the Courts of Gibraltar. He went on to say that under the Constitution the head of the judiciary is the holder of the post of Chief Justice. I am sorry, it is not true, it is not even true in accordance with the very next thing that he himself said that the office of the Chief Justice pre-dates both the new and the old Constitution and therefore is not created in the Constitution as head of the judiciary. So first of all he says he opposes clause 6 because constitutionally, both under the old and the new Constitution he said, the office of head of the judiciary is held by the Chief Justice and the very next thing he says is that, of course, the office of the Chief Justice and its status precedes both the old Constitution and the new Constitution, neither of which constituted as head of the judiciary. Well, which of the two is it? It cannot be both. Of course, it is the second because neither the new Constitution nor the old one designates the Chief Justice as head of the judiciary. Indeed, the new Constitution nor the old Constitution gives any of the functions of what he calls leadership to the Chief Justice. These are matters to the extent that they have existed of practice, absolutely no more than that, practice and insistence on the part of this Chief Justice that it should not change. He is entitled to his view, I do not object to the Chief Justice saying in a proper fashion or even the Chief Justice's wife saying in a proper fashion that they do not think that the Chief Justice should cease to be what they allege to be the head of the judiciary even though constitutionally there is no basis for that statement. It is certainly true that the Government's website makes the statement that the hon Member has recited. Goodness knows who drafted that part, probably the Chief Justice, well xxxxxx be sure it is the judiciary but in any event, I am sure the hon Member is not so short of evidence for his

contentions that he has to scrape the bottom of the barrel quite that deeply in order to argue. If the best that he can come up with is that the Government should not do this because it is contrary to something which is presently in its website, I will take that as a concession from him, because even if it did say that and meant it, so what, why cannot the Government change it? In any event in an argument, Mr Speaker, he says that. Let me just see if I want to make this point now or just a little later. The hon Member when he suggests that there is sort of support for these views that he is expressing and all these arguments about sort of doddering old 72 year olds. By the way, the Leader of the Opposition should be careful with this ageism on the part of the Deputy in his party because he must be creeping close to 72 years old himself and I do not know whether this view that at the age of 72 one becomes unsuitable for high office, I do not know whether he would extend that view to the office of the Leader of the Opposition or Chief Minister. This may all be a ploy by him to get the Leader of the Opposition out of the way on the basis of age. I do not know how many years he has left until the age of 72, which appears to be the age at which the hon Member sitting next to him thinks that people should be put out to pasture and not considered for important offices anymore. *[Interruption]* I see, well he should think a little bit more horizontally about the things that he says.

Mr Speaker, let us see what some of the other judges of Gibraltar's judiciary, the ones that appear not to be as obsessed about clause 6 as the Chief Justice, let us consider what some of these judges had to say about this business of the President of the Court of Appeal, this 72 year old doddering sort of geriatric 1,500 miles away, let us see what some of our young local lawyers and judges had to say about that and let us see if he still thinks that there is support for his views or for the Chief Justice's views in these issues. Mr Justice Dudley, a good Gibraltar member of the Supreme Court, since I know how concerned he is that Gibraltarians should not be denied access to high office, this is what he said, "Dear Chief Minister, Judicial Service Bill consultation, I am grateful for the opportunity you have afforded me to comment on the draft legislation prior to the

Bill being presented before Parliament. Whilst in principle public debate on these issues is to be welcome, it is, I think, a matter of some regret that it should have arisen at such a preliminary stage and indeed in the manner in which it has. In my view this can only be seen as hampering the consultation process upon which the Government has embarked” – of course he was referring to the fact that not three days after the consultation paper was issued by the Government, somebody had contrived to write a four-page article or thereabouts or an article at least in the Vox newspaper. He goes on, “In general terms, I welcome the intended legislation, in particular I acknowledge the desirability of section 38(3) creating disciplinary powers capable of being enforced against senior judicial officers short of invoking section 64 of the Constitution. I am further of the view that it is eminently appropriate that for that disciplinary power to be vested in the President of the Court of Appeal.” He then goes on to say, “The provisions that do give me some cause for concern are to be found in section 6. Notwithstanding that unlike section 7 of the Constitutional Reform Act 2005, section 6 does not specifically provide that the President of the Court is head of the judiciary, the effect of the section is to do precisely that” – he may be right – “it is, I think, undeniable that at least until recently there has been a glass ceiling preventing Gibraltar judges or lawyers from aspiring to the office of Chief Justice”, and then the rest of that point is limited to the question of whether this means or does not mean that there is a sort of a glass ceiling for Gibraltarians. Of course, I have written to him saying, as I would say to the hon Member in a moment when I answer the point that he has made, that it is not true. It is not true, there is nothing to stop Gibraltarian judges from being appointed to the Court of Appeal and aspiring to be the President of the Court of Appeal. There was a time that Gibraltarians were not appointed High Court Judges either, where does he get this view that Gibraltarians cannot, as the Hon Mr Picardo said. I think he said something about a Gibraltarian now can never be, absolute nonsense. Why cannot a Gibraltarian now be, just as there is nothing to stop a Gibraltarian now becoming Chief Justice and from there moving up to the Court of Appeal and from there becoming the

President of the Court of Appeal. What in this Bill creates any form of ceiling on Gibraltarians rising to the Court of Appeal and therefore to the President of the Judiciary? Answer – nothing. So contrary to what the hon Member has said in this House there is nothing in this Bill. He has expressed the concern, of which I hope I have relieved him, the hon Member has come here to state it as a matter of fact that the provisions of this Bill positively mean that no Gibraltarian can ever be..... He has not said that, you have misspoken that. He goes on to say, “I say this because we are.....” he does not have the same views as the hon Member about the Court of Appeal Judges, “I say this because we are very fortunate that the members of our Court of Appeal are undoubtedly amongst the most pre-eminent of English Judges”.

HON F R PICARDO:

I agree.

HON CHIEF MINISTER:

He agrees does he? Well, he did not sound like that when he spoke earlier. After expressing his concern that this should not be a glass ceiling for Gibraltarians, by the way, a factor with which I entirely agree, I hope that Gibraltarians will rise from the Supreme Court to the Court of Appeal and that eventually there will be enough Gibraltarian Judges around that the Court of Appeal can be more Gibraltarianised, there is no reason why the Court of Appeal has to perpetually in the future be comprised of judges drawn from the UK Court of Appeal or any other place. There is nothing in this Bill that has that effect that it says that. Then he says, “I accept there is also force in the argument that having a pre-eminent English Judge as head of our judiciary would enhance its standing”. Given the remarks that the hon Member has made in this House, I think he can hardly draw support for his views from that particular source of the judiciary. He then goes on certainly to say, “My most significant concern,

however” – and this, I have to say, is a concern that almost every consultee made and has been taken on board by the Government. The problem is that the Chief Justice was not complaining about the practicalities of it, the Chief Justice in effect was saying, “even if you deal with the practicalities I still think it is improper for the President of the Court of Appeal”, everybody else, the Bar, local judges, even the President of the Court of Appeal said to the Government in response to the consultation process, “There is nothing wrong with the President of the Court of Appeal being the president of the judiciary but it is impractical that the powers in section 6(2)(a), (b) and (c) should be exercised by somebody who is abroad” and that has been accommodated as I have described. Certainly Mr Justice Dudley expressed those views as well. I will just quote him, “It is in my view impractical for a non-resident judge to effectively discharge the functions contained in section 6(2) which, in my view, ought to be vested upon the Chief Justice”. Then he goes on to explain why he believes that the powers in section 6(2)(b) and (c) ought to be exercised by somebody locally.

Then, we have the views of the other local judge, the Stipendiary Magistrate Mr Charles Pitto, who also says that in overall terms the Bill represents an advance on and a more modern approach than our present system. “The appointment, section 6 of the President of the Court of Appeal as President of the Gibraltar Courts is understandable if surprising. The President is the most senior judge in our most senior court and has, for some years now, been an eminent jurist of a very high standing in the Courts of England and Wales”. I do not think the hon Member can draw any support for his views that this is impractical, improper et cetera from this. Then he goes on to make the practicalities, to give the Government the same practicality advice as everybody else about how it would nevertheless be difficult.

HON F R PICARDO:

Would the Chief Minister read the whole letter rather than just quoting selectively from it because I note that before when he was quoting from the letter from Mr Dudley he told us that Mr Dudley just made the practicality point but then when he read on, very quietly did read on, the point was also made that the Chief Justice should be the head of the judiciary. Perhaps if he reads the whole of the letter that would be useful.

MR SPEAKER:

The hon Member must know I cannot possibly control what is said by a Member as long as it is within the.....

HON CHIEF MINISTER:

That is because he still looks up there as if he were looking at a judge to make an order to direct counsel to do this and this. The hon Member must remember that there is a difference between this Parliament and what he does during the day which is go to court for clients. I think he has grave difficulty distinguishing the two. I will very happily read the letter for him, perhaps if he had asked me instead of trying to get the Speaker to order me to do it as if he was a judge in court, we could have saved some seconds. I am very happy to read the whole letter and I will now read the whole letter. The reason why I have not read the whole letter is because one thing is to quote from somebody's correspondence and another thing is to publish it in full, but as the hon Member encourages me to do it, I will. “I am pleased to participate” – he will not like some of it I can warn him, some of it is x-rated, “as Stipendiary Magistrate in a consultation process ahead of the Bill's publication. The controversies presently surrounding the Bill do nothing to further its proper consideration and are to be deprecated. In overall terms the Bill represents an advance on and a more modern approach than our present system. The appointment, section 6 of the President of the

Court of Appeal as President of the Gibraltar Courts is understandable, if surprising. The President is the most senior judge in our most senior court and has for some years now been” – not a doddering old fool but – “an eminent jurist of very high standing in the Courts of England and Wales. The Court of Appeal, whilst undoubtedly an integral part of our justice system, is nevertheless an itinerant court. No court whose judges visit three times a year and who have no professional experience in Gibraltar other than as Justices of Appeal, can be described as anything other than itinerant. Whilst not doubting the commitment of any President, it will be very difficult for a visiting judge to fulfil the demands which section 6(2) lays upon. This is especially true of section 6(2)(b) and (c). To carry out these functions requires a degree of involvement in and detailed knowledge of the daily workings of our courts which only a resident judge can be expected to have. The role of a presiding judge in any judicial system goes further than the responsibilities laid down in statute. There is an expectation that he will provide leadership, not just for the judiciary but of the legal profession as a whole. It is difficult to see how a non-resident judge, however eminent, can provide such leadership.” – in other words, the practicality issues. He then goes on, “Section 6, as drafted, effectively prevents any realistic prospect of a Gibraltar lawyer ever presiding over our judiciary. In trying to integrate the Court of Appeal further in the context of the new Constitution, the proposed draft will perpetuate a system in which only lawyers from outside Gibraltar will ever preside over our judicial system” – a point, by the way, that I have also heard the Chief Justice make but, of course, Mr Speaker, there is nothing in the Bill that has that effect. If that continues to be the case, it will be for other reasons as it has been in the past. I do not think it will continue to be the case but there is certainly nothing in the Bill which prevents a Gibraltar judge becoming Chief Justice and/or a member of the Court of Appeal and/or becoming its President, absolutely zilch, nothing. Therefore we may all, as Gibraltarians, express the view that it is desirable and express concern about it not happening at some stage that Gibraltar judges will or will not become Presidents of our Courts. We can all agree on that, perhaps but

it is certainly not because of anything in this Bill, that is absolutely for certain. Therefore, Mr Speaker, I have to say that the Government welcomed the input of these two judges and with the exception of the glass ceiling point, which we could not take into account because there was nothing in the Bill that we could change, there is nothing in the Bill that creates a glass ceiling, there is nothing that I can do to amend the Bill to relieve them of that, everything else, all their other suggestions are reflected in the green Bill as opposed to in the original white Bill and that is how a consultation process is supposed to work. Lest anybody listening to the hon Members opposite should think that there is anything wrong in the Court of Appeal, these eminent jurists who, by the way the hon member finished up by suggesting that they might be giving self-serving advice. In other words, these eminent jurists all of whom are leading recent members of the United Kingdom Court of Appeal, stand suspected and charged by the hon Member of giving advice which is wrong but which they give only because they are the beneficiaries of it. I think it is an extraordinary thing for the hon Member to say. Frankly, if I had to choose as to legal propriety, as to democratic propriety and as to whether it amounts or does not amount to interference with the judiciary, about whether it is or is not proper in relation to the administration of justice, I would much rather rely on the four eminent jurists than on the view expressed by the hon Member on behalf of the people for whom he holds no brief. The President of the Court of Appeal and all the judges of the Court of Appeal, all of them, have told the Government in writing in response to the consultation process that “we know of no reason why a senior judge such as the President of the Court of Appeal should not be given the office of President of the Courts of Gibraltar and be vested with overall responsibility for those Courts even though they include Courts of which he is not a member and in which he is therefore not qualified to sit.” Having said that there is nothing wrong with it, so out of the window go all these arguments about raping the Chief Justice’s contract and raping the office and raping the Constitution, here are the four most senior judges in our judiciary saying that they see nothing wrong with it. But having told me that, they then go on to say, as did Mr Justice Dudley

and Mr Stipendiary Magistrate Pitto and the poor old Bar Council, they all said to me, “but in practice it is not practicable for these functions (a), (b) and (c) to be done in that way”. The Government accepted that advice from all of them because we accepted that it was correct advice being given in good faith and not for any ulterior purpose and modified the Bill accordingly and there it is. From the Court of Appeal, “As the President of the Court of Appeal is not permanently resident in Gibraltar, we consider that the Bill should make it clear that direct responsibility for the day-to-day discharge of the duty set out in clause 6(2)(b) and (c) of the Bill, as opposed to the overall responsibility, lies with the Chief Justice”. What a coincidence. Let us see what the Bill now says, “The President of the Court of Appeal has overall responsibility for (a), (b) and (c) subject to that, for the Supreme Court and for lower courts the Chief Justice shall have...” - what a coincidence – “direct day to day responsibility for the matters set out in (b) and (c)”. The Government has accepted squarely the advice of all the other judges and lawyers who were saying to the Government, not what he and the Chief Justice and his wife are saying to the Government, but that it is (a) perfectly proper, not in any sense improper but practically awkward and the Government has dealt with that practical awkwardness. How? By doing precisely what the Court of Appeal suggested which is to create a regime whereby the President of the Court of Appeal is President of the Courts, in that capacity he has overall responsibility for these items of business but subject to that overall responsibility, on a day to day basis in respect of the Supreme Court and lower courts, the Chief Justice will have that responsibility and that is exactly what the Government have done. The Bar Council, and I have to leave this pile here because I still have to deal with the question of the letter which is in this pile from the infamous Commonwealth Magistrates’ Association. Well, infamous in Gibraltar. The Bar Council, contrary to what the hon Member appears to believe, despite being reminded by him that he is a member of it, not of the ruling council but of the Bar, the Bar Council has not advised the Government that the President of the Court of Appeal should not be the President of the Court of Gibraltar. The Bar Council – and I am going to read the letters to

him in full since he enjoys it so much, having letters read to him in full – the Bar Council has said the same as everybody else. Nothing wrong with it but impractical and make other practical arrangements, that is what the Bar Council has said. I will read it to him in case he thinks that like the Court of Appeal Judges I too am making self-serving arguments.

HON F R PICARDO:

I am convinced you are.

HON CHIEF MINISTER:

The hon Member is convinced everybody is, he and those that he does not represent, are all convinced that everybody is wrong except him and making self-serving arguments except him. The hon Member and those that he does not represent.

MR SPEAKER:

May I remind the Chief Minister that he ought to address his remarks to the Chair.

HON CHIEF MINISTER:

I beg your pardon. I am not suggesting that you.....

MR SPEAKER:

But I still wish you would address the Chair.

HON CHIEF MINISTER:

Mr Speaker, the Bar Council – I am quoting now from the letter, I had better start from the beginning, even the niceties – “Dear Chief Minister, I refer to your letter dated 21st February 2007 inviting the Bar Council’s views on the Bill for a Judicial Service Act. The Bar Council has considered the proposals and welcomes them. However, we have the following reservations: section 6(1) whilst recognising that the present incumbent of the office of President of the Court of Appeal is the most senior judge in our judicial system and notwithstanding the advances in telecommunication systems, the Bar Council is not persuaded that it is practicable for the President of the Court of Appeal to be de facto President of the Courts of Gibraltar. Accordingly the Council does not support clause 6(2).” Clause 6(2) is not the one that appoints the President of the Court of Appeal, President of the Courts of Gibraltar, that is clause 6(1) and that is not the clause that they are not supporting. The clause that they are not supporting is clause 6(2) and 6(2) is the one that gives the functions, consistently with the fact that they were saying not practical on a de facto basis, they were saying, “We are not objecting to clause 6(1)” which is the one that appoints the President of the Court of Appeal as President of the Courts of Gibraltar, “we are not supporting clause 6(2)” which is the one that allocates these functions – (a), (b) and (c) the one that we keep on talking about. Exactly the same advice that the Government had had from Mr Justice Dudley, from Stipendiary Magistrate Pitto, from the judges of the Court of Appeal. The Government, I hasten to repeat ad nauseam, has accepted that advice and it is reflected in this Bill by giving xxxxxx How have we dealt with the practicality argument? By giving the Chief Justice the powers for those three functions locally, so that it no longer has to be done by a doddering old 72 year old 1500 miles away, on a direct day to day basis. But there are some people who are not concerned with the direct day to day basis bit. What the people that the hon Member does not represent are concerned about is the overall responsibility bit with which, of course, we have not dealt because we do not agree. So it is not clear to me how the hon Member develops this view that

there is support elsewhere for the views that he has expressed. He then went on to talk about alleged legal consequences. Mr Speaker, the first point he made that there was a change of job description of the holder of the post of Chief Justice. If a layman speaks about job descriptions we could argue about whether he understands the exact purport of that phrase, but the hon Member is a lawyer. Job description means the description of your job as between employee and employer. There is no job description and there is certainly no job description that makes the Chief Justice the head of the judiciary and there is certainly no job description that gives him any of these functions that he is now being allowed to carry on doing albeit by this Bill, albeit subject to the overall responsibility of the President. It is a fiction of the hon Member’s imagination, false. But of course it sounds good and it sounds as if it supports his contentions but it is false words uttered to the wind and therefore advance the debate not one jot. The constitutional issues, the office pre-exists the old and new Constitution. Of course, Mr Speaker, there have been many, the old one is 1969 possibly 1964, depending on what view you take of the one that immediately preceded it, there have been Chief Justices in Gibraltar for much longer than that. There were Chief Justices in Gibraltar at the time when Governors and Majors and Lieutenant Colonels used to run the place. Of course the office of Chief Justice precedes the emancipating Constitutions of the Gibraltarians, so what? One of the most obvious statements of fact that I have ever heard in this House, of course it precedes the Constitution or does he think that there is anybody in Gibraltar who would think that we have only ever had a Chief Justice since 1964? Also does not advance the debate one jot. There is nothing in any of the previous documents relevant to this pre-existing office of Chief Justice that sustains his suggestion that we are changing the job description even under those documents. Also false, not true. Even if there were which there is not, why cannot we change it? I think in the end he agreed that we could if we wanted to. The transfer of leadership point I have dealt with, I am not going to deal with it anymore. This is about impracticalities. The irony of it is that the parties that he does not represent, are the only ones that have gone beyond the

practicalities point. This is the inescapable, only they were not content to see this dealt with through the Government's practical measures - only. They are entitled to their views but I do not see why the Government should act on the basis of the views of one, two or three people when everybody else is expressing a different view to the Government. Is it not much more likely that the Government, remember what the Government stands charged here not as the hon Member has said that it is not a good idea, I stand charged as Chief Minister of Gibraltar of raping the Constitution, of raping the office of Chief Justice and of his raping his contract.

HON F R PICARDO:

Not by me, let us make that very clear.

HON CHIEF MINISTER:

I have not said it is by him, Mr Speaker. But it is certainly by one of the persons whose view he shares on all the other arguments in this matter. Fine, I am glad to hear that there is at least one thing upon which he disagrees with her. In the context of those scurrilous charges, why should the Government assume that she and he and he is right and that everybody else is wrong; the Bar Council, all the Court of Appeal judges, everybody, the Attorney General, the United Kingdom, the Governor who is going to assent to this legislation everybody is wrong. Apparently we are all rapists of the Constitution, we are all rapists of the judge's contract and we are all rapists of the judge's office. It is an outrageous, scandalous allegation serious enough if made by a normal citizen, unacceptable on the lips of the wife of the serving Chief Justice in a small community. He speaks about individuals in retirement over the age of 62 whilst other judges, not the Court of Appeal judges who are beneficiaries, our young local judges extolling their virtues as some of the best jurists in Gibraltar and therefore understanding why they should be President of the Courts of Gibraltar and

wanting to see the disciplinary powers that the Chief Justice wants to retain to himself vested in the President of the Court of Appeal. I wonder why the local judges would prefer to see the disciplinary powers vested in the President of the Court of Appeal and not on the Chief Justice. I have to say that it was not part of the Government's thinking when we drafted this Bill but, frankly, in the light of what has happened recently in relation to the judiciary, I think there is an extra additional reason why it is perhaps prudent in a small community for the head of the judiciary not to be a resident judge. I think the Government stands by subsequent events ratified, confirmed in the wisdom of putting somebody a little bit further away from the sort of position which some people who are presently around would otherwise hold. But that was nowhere near the Government's thinking at the time of doing this legislation. But I do not think there is a lawyer in Gibraltar and probably not a citizen out there in the streets who is not scandalised by the events surrounding the judiciary today and the loser is Gibraltar. We in this House are here to protect the interests of Gibraltar and not to protect the contractual implications of the Chief Justice of the day. Why are we exporting the headship of our judiciary to the UK? Perhaps he thinks that the Chief Justice is what a Gibraltarian? Is that what he really thinks that the Chief Justice of Gibraltar is a local? They have come and they have gone, sent to us by Her Majesty the Queen, in and out. When have they ever been in Gibraltar, why do we now stand charged of exporting the headship of the judiciary? Because if he thinks that the headship of the judiciary is vested in the Chief Justice, it has always been exported in Gibraltarian terms.

HON F R PICARDO:

But he is not really resident.

HON CHIEF MINISTER:

Well, the concept of residence is something different. The hon Member and those that he does not represent make far too much of the concept of residence and certainly the concept of residence does not displace the concept of seniority and there is no point in the hon Member making comparisons between the Chief Justice of Gibraltar, who is the most senior judge of our High Court and the Lord Chief Justice of England who sits and operates in the Court of Appeal and I think also occasionally in the House of Lords, although I am not sure about that. Well, does he think that that is equivalence to the Chief Justice of Gibraltar? Because it is all very well to say, "because there are commonality of words in the title 'Chief Justice' that they must therefore be the same sort of office". One could forgive laymen listening to this debate to have thought, "Chief Justice of Gibraltar, Lord Chief Justice of England and Wales must be more or less the same thing". They are not more or less the same thing. The Chief Justice of Gibraltar is the senior judge of our Court of Appeal and under our Constitution an ex officio member of the Court of Appeal. In England, the Lord Chief Justice who is the head of the judiciary, sits as the most senior judge of the Court of Appeal. The better analogy, the closer analogy is in support of what the Government is doing by appointing the President of our Court of Appeal to the presidency of our judiciary, we are closer to the UK practice not further away from the UK practice. Or does the hon Member think that a Judge in England who spends most of his time sitting in the Crown or the High Court is the head of the judiciary in the United Kingdom, Mr Justice this or Mr Justice that? He must know that that is not the case. Therefore all these comparisons that he draws are completely specious.

Mr Speaker, finally if I could deal with these letters from the Commonwealth Lawyers' Association that so conveniently arrived at a very convenient moment for Mr Justice Schofield and his wife. The hon Members will recall that at the time of the Referendum debates that these letters from the Commonwealth Magistrates' Association and this lady Dr Karen Brewer were

being bandied around Gibraltar as if they were somehow the Gospel according to the Commonwealth Magistrates' and Judges' Association. Well, the hon Member may be bowled over by everything that emerges from that organisation but nobody else is. This is the organisation that told the British Government that the Constitution of Gibraltar, the one that the Privy Council has now approved, the one that the people of Gibraltar have approved by a large majority, she was of the view that it was all a dreadful interference with the independence of the judiciary. This is the lady that the Chief Justice and the hon Member elevate to the status of some sort of guru whom you contradict at the danger of being labelled a rapist of the independence of the judiciary. The letter actually is very unhelpful to the hon Member, very unhelpful because what this lady is saying, the hon Member's opposite case is based on the non-residence. How can we possibly have a non-resident head of the judiciary especially not when one has got a resident Chief Justice? Residence is key except that we find that the lady tells us that even in the Commonwealth there are even countries that have a non-resident Chief Justice. In other words, the person who is absolutely crucial for leadership terms, according to him, the Chief Justice of Gibraltar absolutely inescapably and indeed improper, there are bigger communities than ours in the Commonwealth who do not even have a resident Chief Justice. How can it be improper for the President of the Court of Appeal, the President of our Courts to be non-resident in a context for having a resident Chief Justice that exercises the powers locally on a day to day basis, how can that be improper? This letter, far from supporting his contention, supports the Government's contentions. But I do not regard the strength of the Government's arguments enhanced simply because they are supported by this organisation, because I have seen the extent to which they go down in print systematically at the request of interested parties in Gibraltar without even bothering to get the other side of the story. What judge in the world expresses a view on important constitutional xxxxxx without even writing to us, "what about you guys, what do you think because before I pronounce myself in tablets of stone I would like to hear both sides of the argument". No. She has been asked, I wonder by

whom, well we know by whom, by the Chief Justice because he has told us, and she has just scribbled xxxxxx “but please make sure it gets here by the 15th because the debate in the House you know is on the 15th”. Even though she supports our contention, as far as I interpret her letter, I do not thereby consider our argument strengthened or enhanced.

Mr Speaker, the final point that the hon Member made, well not quite, is that section 6(2) shows the constitutional quagmire into which the Government had propelled Gibraltar at the peril of our survival by this ill-advised piece of legislation. Because he said, “they have had to scrap Supreme Court from the Courts in which the President of the Court of Appeal can sit because the Constitution prohibits it and now look at the mess we are in. Now we have got a President of the Court of Appeal, a President of our Courts who cannot sit in one of them”. It is not true that the Constitution of Gibraltar, any of it including section 60, subsection (2) that he has cited, it is not true that it prohibits the President of the Court of Appeal from sitting in the Supreme Court, no. Section 60(2) says, “The Supreme Court shall, subject to section 62, consist of the Chief Justice and such number of Puisne Judges as may be prescribed by law”. All that we would have to do, and we discussed with the Court of Appeal the possibility of doing this, and they said, “of course you can” but in fact it was their idea but “we do not think in practice it will ever be necessary”. All I would need to do very far from the Constitution preventing it, all I would have to do to get the President of the Court of Appeal a seat in the Supreme Court is to introduce two lines into this Bill to say that the President of the Court of Appeal shall be deemed to be a Puisne Judge of the Supreme Court. Would he like me to do it?

HON F R PICARDO:

I think it is rhetorical.

HON CHIEF MINISTER:

If the House believes that the President of the Court of Appeal should, as President of the Courts of Gibraltar should sit in the Supreme Court, it is not impeded by the Constitution, it would require six words in this Bill which are in the Government’s gift. The point that I make is not do we or do we not want the President of the Court of Appeal sitting in the Supreme Court, the point that I make is that he is wrong when he says in this House that the Constitution prevents the President of the Court of Appeal from sitting in the Supreme Court. It prevents him unless some other law, this Bill for example, prescribes that he is a Puisne Judge, look how easy it is, far from being a constitutional impediment. I am not even a practising lawyer anymore, Mr Speaker, he is the one who is supposed to have his mind sharpened on these legal points. As he keeps on telling this House, I am a rusty sort of ex-senior member – what did he say earlier on today, I think he referred to me as previously a senior member of the Bar. This senior member of the Bar that has not practised law now for over 11 years appears to have a sharper eye for what is constitutional and what is not than he does.

He said in respect to clause 8(1) of the Bill which reads, “The Minister must ensure that the Courts are provided with such court houses, offices, and other accommodation, staff and other resources as the Minister thinks are appropriate for the Courts to carry on their business”. He said, “but the Bar said that they would prefer” – this is one of the reservations that they had – “the Bar said that this business about what the Minister thinks, should go” and they indeed did ask that and the Government rejected the advice, why? For two reasons. First of all, that this section is taken from the UK and in the UK, where presumably they do not rape judges contracts or their offices or the independence of the judiciary, in the UK this section also says “as the Minister thinks”, otherwise what would the position be, that the judges can spend as much as they like? That this House at Budget time decides how much is spent by everybody else on health, on education, on the police, on everything; this

House which is the oracle insofar as the expenditure of public expenditure, would cease to have any say whatsoever on how much money was spent, how many 26 storey office blocks they built for themselves in order to have wonderful offices and all of that, they could employ as many staff as they wanted, hundreds and hundreds of people because if we removed the words from clause 8, "as the Minister thinks appropriate" we are left with "The Minister must ensure that the Courts are provided with such court houses, offices, other accommodation, staff and other resources appropriate for the Courts to carry on their business" as decided by the Courts and by the judges. I cannot imagine that the hon Member as a Member of this House could possibly consider and certainly the 700-odd MPs in England that passed the Constitutional Reform Act 2005 certainly did not think that it was appropriate to eliminate all measure of executive control over how much resources the judiciary could consume.

Mr Speaker, the Opposition may, should it ever find itself in Government again which seems increasingly unlikely at the moment, the hon Members may change the effect of section 6 should they ever find themselves able to do so but if they do it will be contrary to the views of almost everybody else as to the desirability of clause 6. All he would be doing is pampering to the views of the people, Mr Speaker, that he does not represent. I think the hon the Leader of the Opposition raised one point. He said that I should not hide behind the privilege of the House. The hon Member sitting next to him, who appears to be House's self-appointed guardian of what is proper and what is not in this House and who is jumping to his seat, I do not know whether the hon Member is aware of rulings in Parliament in other countries that taunting people that enjoy parliamentary privilege to strip themselves of that privilege is a contempt of this House. But I am not going to leap to my feet and I did not leap to my feet to point this out to him because the Government does not conduct itself in this House as if it were in a sixth form debating society. But coming to the substance of the matter, the Leader of the Opposition of course also does not represent anybody but this point about urging me not to hide behind the privilege of this

House has been recommended onto his lips this very morning by Mrs Schofield. In the e-mail that Mrs Schofield has sent to "Dear Joe".....

HON J J BOSSANO:

And "Dear Peter" as well?

HON CHIEF MINISTER:

No, I used to be "Dear" but apparently I am not "Dear" anymore. This tends to be the consequences of not doing exactly as they order. She says in this "Dear Joe" letter, this is a little bit rich coming from somebody that feels quite free to attack everybody on those vicious terms but this is what the lady says, "My understanding is....." – this is "Dear Joe", four paragraphs down, frankly my own personal view is that this e-mail comes perilously close to itself constituting a contempt of this House – "My understanding is that Parliament cannot be used to attack an individual" – where have we heard that today – "If this is so, I would ask that any attacks on me personally by any Member of Parliament be raised with the Speaker. I have a high regard for Parliament" – provided it does not pass laws that she thinks challenge her husband's contractual interests – "and trust that it will not be used to defend my actions or those of the defendant or when the libel suit is still pending. Both the defendant and I are entitled to due process without interference. I have confidence that the Gibraltar Parliament will respect the rule of law" – as dictated by her presumably. Then she goes on to say, "With regard to comments made by me about the Chief Minister, I am waiting to see whether this will be raised in Parliament" – the temerity of the Chief Minister to raise this in Parliament – and she says "If the Chief Minister uses the floor of Parliament to respond, all I ask him to do is to repeat his comments outside Parliament so that I can have the opportunity to respond". Not hugely dissimilar to the only point that the Leader of the Opposition made which was "must not hide behind the

privileges of this House to defend yourself against attacks". But, of course, neither of them represents Mrs Schofield or anybody else, of course not. How could we possibly have come to any such view? Mr Speaker, Mrs Schofield is free to respond outside of this House to what I say in this House without having to strip me of my privilege, or is it the case that judges can say what they like at Openings of Legal Years from the height of the bench with full privilege but when the Chief Minister exercises his parliamentary privilege that is somehow wrong? Life seems to be so one-sided for some people. They can do and say as they please whenever and however they like and when people who actually have a public responsibility to speak to these issues try to do it, they have got to be gagged by one means or another. I am sorry to have to say, Mr Speaker, that this is not the way Gibraltar is used to conducting its affairs and I for one, will not be intimidated into the supremacy of this Parliament to discuss whatever it likes, whenever it likes subject only to the rules that it has imposed on itself through General Orders and xxxxxx

I have no hesitation, having heard the hon Member's contribution on the second reading speech to reaffirm now even more strongly given I have seen the weakness of the arguments against, I reaffirm my commendation of the Bill to the House.

MR SPEAKER;

The only new matter raised in the Chief Minister's reply was the text of the letters addressed to him by those whom he sought to consult. The Hon Fabian Picardo did put a mark that he may wish to reply to that. I will allow him to exercise that privilege but limited only to the text of the letters which were read out in the closing but not in the opening.

HON F R PICARDO:

I am very grateful, Mr Speaker. The tenor of the Chief Minister's arguments in respect of those letters was to say, "You see, none of the things that you have said are actually views shared by anybody who wrote to me as part of the consultation process". He read us, Mr Speaker, the letter, for example, from Mr Anthony Dudley which dealt with the issue of practicality which he was emphasising and then he went on to read one final phrase which was, of course, the one that was not convenient and in respect of which the Chief Minister gave not as much emphasis as he gave the rest of it which was, of course, the same point that I had made mainly that it should be – and I will say it like he said it – the Chief Justice should be the head of the judiciary. The rest of the letter, has been read out fulsomely and clearly but not unfortunately that part. I am not convinced of either that we got the whole of the text of the letter of Mr Pitto although we were told that we would be read the whole thing x-rated and all. I do not know whether in fact the Chief Minister got to the end of it. I fear that we will never know, he may want to take us to it if he wishes but those are documents sent to him in consultation. Mr Speaker, having heard what the Chief Minister has said and in particular in respect of those letters, I am fortified in my view that the President of the Court of Appeal should not be the head of the judiciary of Gibraltar.

HON CHIEF MINISTER:

Mr Speaker, perhaps on a point of clarification for his benefit only. I did get to the end of Mr Pitto's letter. I am surprised that he is suggesting that having declared that that was what I was going to do that I should somehow surreptitiously not do it. But of course I will not object, on a point of order, to any slur or insinuation or any personal attack on me as an individual that that insinuation may devolve because I am not as sensitive as he is to these things. But I cannot remember if I read out the very last line which was, "Save for the above which I submit for

your consideration, I make no comments on the rest of the Bill". The rest of it I read the whole letter. Even the "Dear Chief Minister" part and I do not recall reading out the date and letterheaded details and address, 277 Main Street and all that.

MR SPEAKER:

The Hon Mr Britto wanted to say something.

HON LT-COL E M BRITTO:

Yes, Mr Speaker, just as you are about to put the question, I would like to ask for a division on the vote.

The House recessed at 6.40 pm.

The House resumed at 6.50 pm.

Question put. The House divided.

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

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 second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE SUPREME COURT (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Supreme Court Act, 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, it may be that this Bill is pretty uncontroversial and certainly unlikely to be as conflictive across the floor of the House as the last one. Much of the Bill is consequential on the fact that the Governor no longer acts in his own discretion in relation to matters to do with appointments et cetera of the judiciary, and now has to act in accordance with the advice of the Judicial Service Commission. So, for example, clause 2 of the Bill amends section 3 of the present Supreme Court Act. Section 3 of the present Supreme Court Act reads, "there shall be attached and belong to the Court a Registrar, a Deputy Registrar," – I will just remind hon Members, at least those who were on the Constitutional Committee, that we agreed that the Deputy Registrar would not be a judicial office at this level. But it presently reads "there shall be attached and belong to the Court a Registrar, a Deputy Registrar and so many officers as to the Chief Justice shall from time to time

appear to be necessary for the administration of justice and the due execution of powers and authorities which are granted and committed to the Court under and by virtue of this Ordinance. Provided, nevertheless, that no new officers shall be created in the Court unless the Governor shall first signify his approbation thereof to the Chief Justice in writing.” Then it goes on, “every officer referred to in subsection (1) should be appointed by the Governor”. Of course, that regime, apart from the fact that the first half of it has never been so in practice, it is decades and decades since Chief Justices could decide how many people were employed in, for example, the Supreme Court registry or how many judges – these are things which ultimately the Government pay for, and the new Constitution has very detailed provisions about appointing extra judges, who is going to be consulted and who has got to agree and things of this sort. So, this old regime is just spent, it is not relevant any more. Under the terms of the new Constitution, all that we believe that section 3 needs to say is that there shall be attached and belong to the Court a Registrar, appointed by the Governor, yes, because the Registrar is one of the junior judicial officers under the Constitution, but we have got to add “acting on the advice of the Judicial Service Commission”. In other words, the whole question of the amount of staff and the amount of resources et cetera, is now under the previous Bill, which includes the UK provision in this section that the hon Members thought “as the Minister thinks” should be excluded from, there is now a statutory obligation on the Minister to make available the resources including staff and buildings and money and all of that. So it is no longer a matter for the Governor, with or without consultation with the Chief Justice, to make decisions of this sort. It is still for the Governor, in respect of judicial officers but subject to acting on the advice of the Judicial Service Commission and in respect of non judicial staff, this amendment would just put the law in the condition that really the practice has been now for several decades. That is, that the administrative support in the Supreme Court Department is just like any other department, decided by Civil Service management in the normal way. Certainly, that is how it has worked all the time that I have been familiar with the system and

I suspect it was before too. So, this is half making it clear that the Governor appoints the Registrar but acting on the advice of the Judicial Service Commission, in other words, constitutional. The other half is amending the Supreme Court Act so that it reflects what is and has always been the position, at least in modern Gibraltar, that non judicial appointments to the Supreme Court and the amount of staff has always been a matter for the Civil Service administration and not a matter for the Government or a matter for the Chief Justice.

The other section is the amendment to section 27. Section 27 presently says that remuneration of jurors, hon Members may be aware, I am not sure that it is ever put into practice, but there is this provision in the Bill which has nothing to do with the Constitution although it reflects the fact that now we have a Minister for Justice, with which they feel uncomfortable, but I hope it will not colour their judgement on this question. The present rule says the Chief Justice may, with the approval of the Governor, make rules prescribing compensation for loss of earnings which jurors in the Supreme Court would otherwise have made. So in other words, this section says that if one is called up to jury service and as a result one loses income, that the Chief Justice, presumably with the public cheque book in his hand, decides how much one should get paid. Now, that is classically a Ministry of Justice, it is not really a judge sort of thing. In any event, before the Chief Justice it is not as if he could do it, he could only do it with the approval of the Governor so really, the decision maker was the Governor. Now we have a Minister for Justice we are proposing that that should read, “the Minister with responsibility for Justice may make rules prescribing compensation”. Although we have not proposed it, we would be very happy to add onto that the usual requirement, that such rules have to be tabled and laid in the House or something like that if the hon Members thought that that added anything to it.

The other change that the section makes is in section 28(3). For some reason I think this was done for reasons which the Leader of the Opposition may be aware and remember, for

some reason it says they introduced into the legislation, every person holding the office of Attorney General, Senior Crown Counsel or Crown Counsel, so long as the holder of that office shall have all the rights and privileges of a barrister entitled to practise in Gibraltar, they inserted "law draftsman". Now, the Government no longer feel comfortable that a law draftsman, who may not necessarily be a lawyer even, one does not have to be a lawyer to know how to draft laws, that every law draftsman should have the right of audience in our Courts, for example, by virtue of the fact only that they are a law draftsman. We honestly believe that there is no need to continue. If they are barristers or solicitors they have the right of audience in our Courts anyway. This only helps them is they are not barristers or solicitors. If they are not barristers or solicitors, they should not have the right of audience in our Courts because they are not trained for the purpose.

Section 36 is amended. This is the question of setting interest on judgement debts and for many years this was just undealt with through sort of neglect almost. There was a time, I remember, when interest rates in Gibraltar were 8 per cent or 9 per cent and the best bank in the land actually was the Supreme Court, because they were still giving 15 per cent on judgements. It was the most generous sort of lending bank in the world. I think that this means that this is not an issue for judges. In other words, to make sure that the interest paid on judgements should keep touch with the realities of levels of interest rates in the rest of the economy in the rest of the society, is not something that needs to be done by the Chief Justice, who by the way, could only do it with the approval of the Governor. So, what we are suggesting there is Minister with responsibility for Justice.

Finally, section 38B(4), this is entirely consequential on the new Constitution. It says the Governor may appoint any person appearing to him to have the knowledge and experience to act as a master. A master is a sort of High Court Judge, and that now has to read consistent with the Constitution, the Governor acting on the advice of the Judicial Service Commission may

appoint any person. Those are the amendments to the Supreme Court Act that we are proposing in order to bring it up to date with the current situation in Gibraltar. I commend the Bill to the House.

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

HON J J BOSSANO:

Just on one point. I think, if I understood the Chief Minister right, what we are talking about is the Minister having the power to make rules and that those rules were previously made by the Chief Justice. As I understood him, it is not that we are actually fixing how much they should be paid but producing the rules that determine how it will be done. It is a formula that we are talking about.

HON CHIEF MINISTER:

It is the same thing. Before, the person who made the rules fixed the formula, because there is no distinction between the power to make the rule. In other words, it was not the case before that somebody else did the thinking and then the Chief Justice would just sort of write it out and sign it. That is not what happens, so whoever has the power to make the rules decides the formula, there is no doubt about that. Before it was notionally the Chief Justice but he could only do it with the approval of the Governor.

Question put.

Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE CORONER (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Coroner Act, 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 in a similar vein. The first amendment is to section 3(1) of the Coroner Act, which presently reads “the Governor shall appoint some fit and proper person to be Coroner and may appoint a Deputy Coroner”. It should now read, “the Governor acting on the advice of the Judicial Service Commission shall appoint some fit and proper person to be a Coroner and may appoint a Deputy Coroner”.

The second amendment is to section 10 of the Bill which says, “where the Coroner has reason to believe that a death has occurred in such circumstances that an inquest ought to be held and that owing to the destruction of the body by fire or otherwise, or to the fact that the body is lying in a place from which it cannot be recovered, an inquest cannot be held except

by virtue of the provisions of this section, he may report the fact to the Governor who may, if he considers it desirable so to do, direct an inquest to be held touching the death and then the inquest shall be held with such modifications” et cetera “without otherwise than on or after view of the body lying in the Coroner’s jurisdiction”. All that is to replace the “Governor” with the “Minister with responsibility for Justice”. In other words, it will be the Minister with responsibility for Justice as opposed to the Governor, that will be able to direct an inquest to be held where the body cannot be found or recovered. That is the effect of that amendment.

Sections 21 and 21A are again amended by deleting “Governor” and replacing it with “Minister for Justice”. This is about fees and expenses in relation to inquests. Section 21 present reads, “the Governor may make regulations to provide for the payment of fees, allowances and disbursements and expenses to medical practitioners, medical witnesses and other persons performing functions or providing services under this Act”. There we are saying change “Governor” for “Minister with responsibility for Justice”. Then there is payment in respect of jury service, the same point as we have just discussed in the Supreme Court Act, the Chief Justice may make rules to provide for payment of compensation for loss of earnings suffered by a person in consequence of his attendance as a juror at an inquest. As per the Supreme Court Act that we have just done, that that should be the Minister for Justice and not the Chief Justice. I commend the Bill to the House.

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

HON F R PICARDO:

There is in this Bill an amendment to the existing Act which is quite more substantial than the one that we have dealt with in respect of the Supreme Court Act. In the Supreme Court Act we are dealing with financial matters and despite our discomfort

with the office of the Minister for Justice, we can understand why those issues should be in the hands of those who deal with financial matters for the Government. But in this particular Act we are going to change, the Chief Minister has read it out and I do not need to repeat it, the name of the officer who is responsible for the decision of whether or not an inquest should occur in certain circumstances. Now, the Opposition are of the view that the Governor should not be the party that is mentioned in the Act. The Chief Minister is therefore going to enjoy our support in changing that away from the Governor. It will not enjoy our support in putting in the place of the Governor the Minister for Justice, because the decisions to be taken in respect of this section are very technical decisions. They should not, in our view, require the input of a political individual. Here the individual will be deciding on whether or not in the circumstances of destruction of bodies et cetera, an inquest should be held. I think that neither a Governor nor a Minister for Justice are the parties who should assist the Coroner in those circumstances. Therefore, from the Opposition side we will not be able to support the section in that form. We would support an amendment to the section which put that, for example, in the hands of the Attorney General.

HON CHIEF MINISTER:

The Attorney General is wholly unacceptable. The Attorney General would have done this when he was de facto Minister for Justice in this House. This is one of the things that we have grown out of, the Attorney General is now the Director of Public Prosecutions. This is not about prosecutions, not that Ministers do not handle technical matters in many other areas. My goodness, I wish somebody would relieve me of all the responsibilities that I have to deal with that are of a technical nature. The decision being made here is not technical, it is whether it is desirable. If I could just refer the hon Member to the fourth-last words, the facts to the Government who may, if he considers it desirable so to do. So this is a sort of a policy issue, whereas given that the bodies have not been recovered,

given this, given that the normal circumstances is it nevertheless still desirable to hold an inquest. This is not the Minister getting involved in the nitty gritty of the holding of the inquest. So we would certainly not agree to give this power to the Attorney General, who is not any longer in a policy decision making role, other than policy in relation to the public interest in the context of prosecutions. I will give way.

HON F R PICARDO:

I am grateful to the Chief Minister giving way. We are not intent on it being the Attorney General. We just think that it should be in hands which are not political because one does not know in what circumstances these inquests may be desirable and what the consequences of them may be. Could it be, for example, that we could put it in the hands of, dare I say lest I unleash another three hours of debate on us, the Chief Justice or the President of the Court of Appeal, or the head of the judiciary whoever he may be?

HON CHIEF MINISTER:

These are not judicial considerations. First of all I do not subscribe to the view that there are some things in life that politicians should not do because there is an assumption that they would do it improperly or abuse it. I know that this often raises its head and increasingly in the political debate everywhere in the democratic world. There is this tendency to disqualify the only people that can be hired and fired by the public, somehow in favour of giving powers to people who are usually completely unaccountable, completely untransparent, and this is not a philosophy of life I have to say to which I subscribe. My philosophy of life is that as much power as possible should be vested in people that the people of Gibraltar are able to hire and fire, at least once every four years. So I honestly do not share the religious philosophy, religious not obviously in the theological sense, I do not share the

philosophical premise of the hon Member's point that because this is about inquests that, therefore the Minister, even a Minister with which he is more generally comfortable, because he is a politician should not be able to exercise these powers. If I have not persuaded the hon Member, and I am still waiting to persuade him, he has persuaded me several times over the months and years. Yes, I have introduced amendments that he has proposed. I am not aware that I have ever succeeded in persuading him and it cannot be because I am unpersuasive. It is much more likely to be because he does not open his mind to my persuasion. So, we are not going to agree on this and even if I have not been able to persuade him, we will just agree to differ. I suspect that this simply reflects their general discomfort with the concept of a Minister for Justice and that this really is what lies at the bottom of this.

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

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 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 MAGISTRATES' COURT (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Magistrates' Court Act, 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, again, this is in the same sort of vein. The Court shall use a seal of such pattern as the Governor, insert "acting on the advice of the Judicial Service Commission", that is the proposed amendment to section 4 of the Act.

The proposed amendment to section 6 of the Act which currently reads, "the Governor may appoint a legally qualified person to be the Stipendiary Magistrate". Insert after the word "Governor", "acting on the advice of the Judicial Service Commission". In sub-clause 3 which presently reads, "in the case of the death, retirement, suspension or removal from office or absence from Gibraltar of the Stipendiary Magistrate, the Governor", insert "acting on the advice of the Judicial Service Commission, may appoint a legally qualified person to act as Stipendiary

Magistrate". The same amendment in sub-clause 4, simply to add after the word "Governor", the words "acting on the advice of the Judicial Service Commission".

The same applies in respect of section 7 of the Bill, which is appointment of Justices of the Peace. The Governor may, insert "acting on the advice of the Judicial Service Commission, appoint by a Commission under his hand and the public seal as occasion may arise, any British subject resident in Gibraltar to be a Justice of the Peace for Gibraltar" and delete the remaining words, "who shall hold office during the Governor's pleasure". Of course, the Governor is no longer free to sack them without the advice of the Judicial Service Commission. Similarly, sub-clause 2 which says "the Governor may in his discretion revoke any commission without showing any cause therefore". It should now read, "the Governor shall on the advice of the Judicial Service Commission revoke any commission". So in other words, delete "may in his discretion" and delete "without showing any cause therefore".

Roles of justice, yes, section 8 of the Magistrates' Court Act imposes on the Chief Justice the duty to keep and publish annually in the Gazette a list – this is one of the leadership, head of the judiciary points, which I doubt I will be able to persuade the hon Member to vote in favour of stripping the Chief Justice. That is not how we see it, we do not see the stripping of the Chief Justice. We see it as, look for the first time and let us not make any further references to discomfort for the Minister for Justice, we have heard his view, this is the first time that Gibraltar has a Ministry for Justice. There are things which properly belong in a Ministry for Justice which, historically, because Gibraltar has never had a Minister for Justice are scattered around various places, the Governor, the Judge, the this the that and a very careful view has been taken of which of those are judicial functions and should stay with the Judge and which are non-judicial, either policy of judicial or administrative organisational functions, which belong in the centre, belong in the Ministry for Justice regardless of whether one thinks a Ministry for Justice should exist or not. Now, this is one of the

functions that we say, this is nothing to do with appointments of JPs, it has nothing to do with removal, it has nothing to do with discipline, this is simply who publishes, for the purposes of annual information once a year in the Gazette, a notice simply setting out the list of JPs that the Judicial Service Commission will have appointed. We are giving that function to the Minister for Justice, both in respect to the role and to the supplemental list.

In section 9(4) there is presently power on the Chief Justice. It says, "there shall be entered in the supplemental list the name of any Justice (a) who is the age of 70 years or over – at a certain point Justices go to a supplemental list....."

HON F R PICARDO:

Not even 72?

HON CHIEF MINISTER:

No, these are untrained laymen. Who applies to have his name entered therein or in respect of whom it presently says the Chief Justice is satisfied that by reason of age, infirmity. That has to read now "Governor acting on the advice of the Judicial Service Commission", because under the Constitution the Chief Justice now cannot remove Justices of the Peace. All removals are on the advice of the Judicial Service Commission. So in (c) there for "Chief Justice" we put "Governor acting on the advice of the Judicial Service Commission".

In section 12 which says, "any Justice may if and when he so desires, resign his appointment without showing any reason therefore, by notifying the Chief Justice in writing for the information of the Governor". That would read, "by so notifying the Minister for Justice in writing for the information of the Governor". In other words, the postman of a Justice's letter of resignation, it still goes to the same destination – the Governor,

but the postman now is the Minister and not the Chief Justice. In subsection (2) of that section, which presently says, "if any Justice shall be absent from Gibraltar for a period of more than one year at any one time, his commission shall stand revoked unless the Governor" – it presently says, "sees fit upon good cause shown to direct otherwise", and now reads, "Governor acting on the advice of the Judicial Service Commission directs otherwise". In other words, that is the standard amendment. Appointment of Clerk of the Court, it presently says, "the Governor may appoint a person to be Clerk of the Courts". I suspect it is a long time since he has actually done so. This should now read, "the Minister with responsibility for Justice may designate a public officer to be the Clerk of the Magistrates' Court", which is, I think, how it has been operating for some time already. Those are the amendments. 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.

If all hon Members agree, Mr Speaker, can I invite that we should now move into Committee Stage. I suppose I have got to move to suspend Standing Orders, so that we should now revert to these Bills for the Committee Stage, leaving the rest still on the Order Paper for the First Reading.

Question put. Agreed to.

COMMITTEE STAGE

HON CHIEF MINISTER:

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

1. The Social Security (Closed Long-Term Benefits and Scheme) (Amendment) Bill 2007;
2. The Social Security (Open Long-Term Benefits Scheme) (Amendment) Bill 2007;
3. The Social Security (Insurance) (Amendment) Bill 2007;
4. The Financial Services (Banking) (Amendment) Bill 2007;
5. The Social Security (Employment Injuries Insurance) (Amendment) Bill 2007;
6. The Public Health (Amendment) Bill 2007;
7. The Judicial Service Bill 2007;
8. The Supreme Court (Amendment) Bill 2007;
9. The Coroner (Amendment) Bill 2007;
10. The Magistrates' Court (Amendment) Bill 2007.

Was there not a Bill that was left pending, or was that just pending the Third Reading?

MR CHAIRMAN:

Left pending the Third Reading, the International Criminal Court Bill.

THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) (AMENDMENT) BILL 2007

Clauses 1 to 4 – were agreed to and stood part of the Bill.

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

THE SOCIAL SECURITY (OPEN LONG-TERM BENEFITS SCHEME) (AMENDMENT) BILL 2007

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

Clause 2

HON CHIEF MINISTER:

In clause 2, I have given notice of this amendment to add a new subsection (10) which is the clarification paragraph, which we will come to again three or four more times. This is making clear the point that if somebody that would be entitled to this benefit of not having to pay more social insurance contributions at the age of 55, by virtue of compulsion of law, retirement age, that they have to wait until the age of 55 should they retire earlier than age 55. I have given written notice of that.

“(10) An insured person whose retirement age is 55 by operation of law and who retires at a prior age shall continue to be liable to make contributions pursuant to the provisions of this Act until age 55 is reached.”

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.

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

THE SOCIAL SECURITY (INSURANCE) (AMENDMENT) BILL 2007

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

Clause 2

HON CHIEF MINISTER:

Same amendment of which I have given written notice. On this occasion to add it as a new sub-clause (7). That is to say, the amendment about the person aged 55 who retires younger than the age 55.

“(7) An insured person whose retirement age is 55 by operation of law and who retires at a prior age shall continue to be liable to make contributions pursuant to the provisions of this Act until age 55 is reached.”

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

Clauses 3 and 4 – were agreed to and stood part of the Bill.

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

THE FINANCIAL SERVICES (BANKING) (AMENDMENT) BILL 2007

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

Clause 2

HON CHIEF MINISTER:

In clause 3, hon Members may have noticed that there are two clause threes. One on the front page and the other on page 776. What I am being asked to propose to the House is that this is really just a numbering error. On enactment and publication of the Act the numbering will be corrected and section 2 will be amended to substitute "42" for "43" as these are typographical errors and subject to your concurrence I shall not be moving a formal amendment. Clause 2, if hon Members will look at that on the front page, has a reference to sections 3 to 42. When we have renumbered, section 42 will become section 43. Therefore, that cross-reference in clause 2 would be a cross-reference to section 43. So everything else is numbering and just one cross-reference can be corrected and treated as a typographical error. Otherwise I can just move the amendment now that section 42 will read section 43.

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

Clause 3

MR CHAIRMAN:

The first clause 3, was agreed to and stood part of the Bill.

Clause 3A

MR CHAIRMAN:

The second clause 3 of the Bill now stands amended to 3A, stands part of the Bill.

HON CHIEF MINISTER:

I wonder whether we have correctly interpreted this rather peculiar procedure that has been put on my lips here. The idea is that it should be called 3A only at the Committee Stage but not actually 3A. What the draftsman now wants to do is treat it all as a typographical error and renumber clause 3 to clause 4, clause 4 to clause 5, clause 5 to clause 6. In other words, change every number. The proposal is that the second clause 3 becomes clause 4, and every subsequent clause gets renumbered.

HON J J BOSSANO:

That has got to be moved.

HON CHIEF MINISTER:

Well, the proposal was that it should just be dealt with as a typographical error but if not, I am happy to move it that way. I agree, it can just as easily be moved.

HON F R PICARDO:

Just moved as a renumbering not actually going through the whole thing.

HON CHIEF MINISTER:

Yes, I can move the renumbering as well as the alteration of the cross-reference in clause 2.

MR CHAIRMAN:

Well that has been dealt with. That was relatively straight forward. Therefore, to agree in effect that second clause 3 should be renumbered clause 4, and subsequently all other clauses should be renumbered one further down.

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

Renumbered clauses 5 to 43 – were agreed to and stood part of the Bill.

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

THE SOCIAL SECURITY (EMPLOYMENT INJURIES INSURANCE) (AMENDMENT) BILL 2007

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

Clause 2

HON CHIEF MINISTER:

Same amendment, to add a new sub-clause (3) in clause 2(b) of the Bill. To add the language of which I have given notice: “(3) An insured person whose retirement age is 55 by operation of law and who retires at a prior age shall continue to be liable to make contributions pursuant to the provisions of this Act until age 55 is reached.”

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 2007

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

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

THE JUDICIAL SERVICE BILL 2007

Clauses 1 to 6 – stood part of the Bill.

Clause 7 – stood part of the Bill.

HON F R PICARDO:

Can I just make one observation in relation to this particular section, it is not so much a matter necessarily for Committee. But my reading of the section seems to suggest that once the Bill is passed the oath should be taken. I do not know whether the Chief Minister objects to taking it today but once we get past the Third Reading there is still a meeting, the Bill is law and in my view he should take the oath. It is just a mechanical issue about when he takes the oath.

HON CHIEF MINISTER:

Yes, because it is the first meeting of Parliament in which I am present after my appointment.

HON F R PICARDO:

I think that is right, I think, therefore, he should take the oath today after the Third Reading.

HON CHIEF MINISTER:

No, because the Bill needs the Royal Assent.

HON F R PICARDO:

Well, yes. The Chief Minister is right.

Clause 8 – stood part of the Bill.

Clause 9

HON CHIEF MINISTER:

A very minor point – at the top of page 849 of the Bill there should be, that language starting with the words “each appointed Member” should be preceded by “(2)”.

Clause 9, as amended, stood part of the Bill.

Clauses 10 to 28 – stood part of the Bill.

Clause 29

HON CHIEF MINISTER:

In clause 29, delete the title “The Governor options” and replace with “The Governor’s Options”.

Clause 29, as amended, stood part of the Bill.

Clauses 30 to 42, the Schedule and the Long Title – stood part of the Bill.

THE SUPREME COURT (AMENDMENT) BILL 2007

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

Clause 3

HON CHIEF MINISTER:

In clause 3, we want to insert the words according to the Bill, the Minister with responsibility for Justice but we must also insert the word “may” so the amendment stops one word short. So the proposed amendment is to insert the word “may” after the word “justice” so that it reads, “the Minister with responsibility for Justice may make rules prescribing”.

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

Clauses 4 to 6 – were agreed to and stood part of the Bill.

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

THE CORONER (AMENDMENT) BILL 2007

Clauses 1 to 4 – stood part of the Bill.

The Long Title – stood part of the Bill.

THE MAGISTRATES’ COURT (AMENDMENT) BILL 2007

Clauses 1 to 7 – were agreed to and stood part of the Bill.

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

THIRD READING

HON CHIEF MINISTER:

I have the honour to report that:

1. The Social Security (Closed Long-Term Benefits and Scheme) (Amendment) Bill 2007;
2. The Social Security (Open Long-Term Benefits Scheme) (Amendment) Bill 2007, with amendments;
3. The Social Security (Insurance) (Amendment) Bill 2007, with amendments;
4. The Financial Services (Banking) (Amendment) Bill 2007, with amendments;
5. The Social Security (Employment Injuries Insurance) (Amendment) Bill 2007, with amendments;
6. The Public Health (Amendment) Bill 2007;
7. The Judicial Service Bill 2007, with amendments;
8. The Supreme Court (Amendment) Bill 2007, with amendments;
9. The Coroner (Amendment) Bill 2007;
10. The Magistrates' Court (Amendment) Bill 2007.

have been considered in Committee and agreed to, with or without amendments and I now move that they, together with the International Criminal Court Bill 2007, be read a third time and passed.

Question put.

The International Criminal Court Bill 2007;

The Social Security (Closed Long-Term Benefits and Scheme) (Amendment) Bill 2007;

The Social Security (Open Long-Term Benefits Scheme) (Amendment) Bill 2007;

The Social Security (Insurance) (Amendment) Bill 2007;

The Financial Services (Banking) (Amendment) Bill 2007;

The Social Security (Employment Injuries Insurance) (Amendment) Bill 2007;

The Public Health (Amendment) Bill 2007;

The Supreme Court (Amendment) Bill 2007;

The Magistrates' Court (Amendment) Bill 2007

were agreed to and read a third time and passed.

The Judicial Service Bill 2007;

The Coroner (Amendment) Bill 2007.

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

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 Bills were read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Tuesday 19th June 2007 at 9.30 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 7.50 p.m. on Friday 15th June 2007.

TUESDAY 19TH JUNE 2007

The House resumed at 9.35 a.m.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister
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 C A Bruzon
The Hon S E Linares
The Hon L A Randall

ABSENT:

The Hon J J Holliday - Minister for Trade, Industry, Employment
 and Communications

The Hon Miss M I Montegriffo
The Hon F R Picardo

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

BILLS

FIRST AND SECOND READINGS

THE PUBLIC APPOINTMENTS ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to make provision for the procedures to be followed by certain Commissions created under the Constitution and matters incidental 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, this Bill makes provision for the regulation of the Specified Appointments Commission. That is to say, Part 1 of the Bill makes provision for the regulation of the Specified Appointments Commission established under section 56 of the Constitution, and also in Part 2 for the Public Service Commission established under section 55. The House will note that the Bill follows in large measure the statutory framework that already exists in relation to the Public Service Commission under the Public Service Commission Act and the Public Service Commission Regulations. Both these enactments are to be repealed by this Bill. The Bill is divided, as I say, into Parts.

Part 1 relates to the Specified Appointments Commission. In relation to the Specified Appointments Commission, the Bill

provides in clause 2 the usual interpretation clause for a Bill. Clause 3 provides that appointments of members of the Specified Appointments Commission shall be for three years. Clause 5 gives power to the Commission to conduct such examinations, interviews and investigations as it may consider necessary for the discharge of its functions. The Secretary to the Commission will be a public officer designated by the Chief Secretary. The Chief Secretary is also required to provide the Commission with such logistical or administrative support as it may require to discharge its functions. This is set out in clause 6. Clause 7 provides for remuneration and expenses payable to members of the Specified Appointments Commission to be a charge on the Consolidated Fund.

Part 2 of the Bill relates to the Public Service Commission and replicates to a large extent the provisions set out in Part 1, with the exception that the Public Service Commission has the additional power to delegate functions to a board, as is currently the case. Clause 8 sets out the interpretation of this part of the Bill. Under clause 10, the Chief Secretary shall designate any public officer or other person to be the secretary of the Commission and to provide other logistical and administrative support. Under clause 11, the Public Service Commission has power to conduct examinations, interviews and investigations and appoint selection, promotion or other boards which it may consider necessary for the proper discharge of its functions. Under clause 11(3), the PSC may delegate to a board any of its functions relating to, for example, the interviewing of candidates or the disciplinary control of any public officer. Clause 12, like clause 7, provides for remuneration and expenses payable to a member of the PSC to be a charge on the Consolidated Fund.

Part 3 of the Bill is of general application and it applies both to the Specified Appointments Commission and to the Public Service Commission. Therefore, in this Part when I refer to the Commission, this means both the Specified Appointments Commission and the Public Service Commission. Similarly, references to members of the Commission is a member to either. Clause 13 provides the interpretation of this part of the

Bill. Clause 14 provides that communications of the Commission are to be privileged. Clause 15 provides protection of members of the Commission from any action or suit brought against any of its members for any act done or omitted to be done in the execution of their duties under the Constitution or under the provisions of the Bill. Clause 16 provides that a person who wilfully gives to the Commission or to any member any information which is false or misleading, to be guilty of an offence and liable on conviction and indictment to imprisonment for up to two years and to a fine not exceeding level 5 on the standard scale. Clause 17 provides that without the written consent of the Governor, acting in consultation with the Commission, there cannot be any publication or disclosure of the contents of any document, information or communication which has come to a Member's knowledge in the course of his duties under the Constitution or under this Bill, to any unauthorised person. A person who acts in contravention of this clause shall be guilty of an offence and liable on conviction on indictment to imprisonment for up to one year and to a fine not exceeding level 4 on the standard scale, or to both. Clause 18 provides that it is an offence to influence or attempt to influence any decision of the Commission or of any member. A person found guilty under this clause is liable on conviction on indictment to imprisonment for up to two years and to a fine not to exceed level 4 on the standard scale, or to both. The consent of the Attorney General is needed for prosecutions under these clauses. Clause 20 makes provision for the taking of oaths by members of either of the two Commissions. Clause 21 provides the Government with a regulation-making power and clause 22, as previously stated, repeals both the Public Service Commission Act and the Public Commission Regulation. Clause 23 sets out transitional provisions and clause 24 sets out provisions in the Act which shall not derogate from any provision of the Constitution.

If hon Members will cast their minds back to the Judicial Service Bill that we gave the Third Reading to on Friday, this completes the statutory framework then of primary legislation underneath the Constitution. The Constitution creates three Commissions.

It creates a Specified Appointments Commission, which deals basically with the appointment of senior officers, such as the Attorney General and the Principal Auditor. It also deals with the appointment of members of the Public Services Commission itself. Then there is a Public Service Commission. The regime has not changed and all we have done is taken from the existing legislation the provisions and put it into this one, for the sake of it all being in one piece of legislation. Then, of course, there is the Judicial Service Commission which we debated on Friday. So these are all Commissions created by the Constitution, not by this legislation, this legislation is just providing the operating structure for those constitutional Commissions. I commend the Bill to the House.

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

HON J J BOSSANO:

Just on a point of clarification. The position is that the Public Service Commission is required to be the one that takes the policy decision on who to select and then the Governor appoints in accordance with the decisions made by the Commission. But this applies, in fact, to public officers who are people who hold a civil office of emolument under the Crown in Gibraltar. Am I right in that this means that the functions that have been moved to Agencies, for example, while it was an Electricity Department the people there were public officers but the Electricity Authority recruits directly from outside, as opposed to the people that were already Civil Servants, their selection would not be a matter for the Commission? Therefore, presumably, they are not public officers they are something else. Am I right in thinking that? If that is the case, then presumably it is the case with all the other bodies where they have this power to employ people. I seem to recall that the Constitution actually specifically mentions the RGP as still being public officers but it does not mention anything else. So although the RGP has got the Police Act, they are still public officers. I just would like confirmation

whether that position is unique to the RGP and does not apply to any of the other entities.

HON CHIEF MINISTER:

One of the novelties of the new Constitution in relation to Public Service Commission, as indeed, before I come to answering the specific question that he has put to me, one of the novelties of the legislation of the new Constitution, also in respect of Public Service Commission as we commented on Friday in relation to other aspects, is that whereas before the selection boards of the PSC were advisory in the sense that the Governor could theoretically appoint, now creation of public officers is a matter for the Government. So the Government decide whether they want another senior officer in the Tourism Department, or whether they want another architect in the Technical Services. That is the creation of public officers. I am describing to him the position under the Constitution. Appointments to public offices are still PSC but now the Governor is obliged to act on the advice of the PSC. It applies, as he correctly surmises, to offices of emoluments under the Crown, which is the same formula as under the existing legislation and that is, basically, just Civil Servants. In other words, people who are directly employed by the Crown, whose employer is the Crown. Therefore, it does not include anybody who is an employee of an Authority, or a Government company, or a Statutory Agency, just as employees of GBC, for example, have never been public officers because they are not employees directly of the Crown. In the case of the RGP, the position is slightly different because these are under the Police Act. The police are in a separate category of their own. If I remember correctly, police officers are employees of the Commissioner of Police and I do not think that has changed under the new Police Act that we passed last year. They are in a slightly different category to other Civil Servants, they are employees directly of the Police Force. Of course, the Commissioner of Police is himself an officer under the Crown so, therefore, police officers are public officers. They are officers under the Crown of emolument directly under the Crown

but they are not in the same position as the employees of another Government department. Their employment status, by the statute that creates the Police Force, creates an immediate employer for them which is the Commissioner of Police. So the answer to his question is yes, this definition does not include all the people employed in Agencies and Government companies and Statutory Authorities. The hon Member will recall that when we were debating the Constitution, at the time we were negotiating it, that actually the Constitution has a provision in it that only requires the PSC's involvement in the appointment of public officers where there is a statutory law that so requires it. So, for example, it is possible under the new Constitution for a statute to be passed in this House, it was not before the new Constitution because the old Constitution did not include such a provision. Under the new Constitution it is now possible for us in this House to pass a law saying teachers and nurses and people of that sort, who are not policy administrators, they are more in the sense, in the UK they would be sort of Local Authority grades or something like that, that they do not need to go to the PSC that some other arrangement can be made for them. The hon Member may recall that we wrote that clause into the Constitution and obliged him.

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 PARLIAMENT (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Parliament Act following the coming into operation of the Constitution of Gibraltar and to provide for the making of rules to allow for advance voting, 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 amends the existing Act to bring it into line with the new Constitution and also provides for an element of housekeeping and updating. Of course, this is what the Ordinance that we all used to know as the House of Assembly Ordinance, which is now the Parliament Act and that is the one that we are amending.

Clause 2(2) amends the interpretation section of the Act and in addition to making the definitions compatible with the new Constitution, deletes the reference to "industrial employment". I am advised that Official Employers Joint Industrial Council is obsolete, and by extension so is the definition used in this section and in Schedule 2, which is similarly amended. This sub-clause also inserts the definition of "Minister", which in this case would be the Minister with responsibility for elections. I would just like to point out to the hon Members the specific reference to industrial employment that has been removed. The Schedule 2 is classes of public officers who may be candidates for elections. It says "holders of any public office under the

Crown in right of the Government of Gibraltar being" and the very first item being (a) industrial employment. "Industrial employment" is actually a defined term and it is a defined term by reference to a definition that no longer exists. Therefore, theoretically, it would have the effect of dispossessing all those people that might otherwise fit within that enabling provision from it, because no one can comply with the definition of "industrial employment". I hasten to add that no one is being dispossessed of any right. On the contrary, their right which everybody has always taken for granted and assumed despite the provisions of this, despite the fact that they are not technically in compliance with the definition, is now enshrined so what is being removed is a redundant definition that no one is reading and which if technically applied no one could comply with and then industrial employees would lose that right. So this is a positive tidying up and not a restrictive tidying up.

Clause 2(3) amends the list of persons who are entitled to be registered as electors and reflects the additional categories of person who are entitled to be so registered. In addition, this sub-clause also amends section 3 of the principal Act so that the reference to "wife" are amended to the gender-neutral "spouse". Just to take the hon Members through that, the current section 3(1) of the Act says, "the persons entitled to vote at elections of Members of Parliament, in this Act referred to as the Parliament under the Constitution Order 2006, shall be those who (1) have lived in Gibraltar during the whole period of the qualifying period"; (no change) "and (2) intend to live in Gibraltar either permanently or indefinitely"; (no change) "and (3)" and here is where the definitions are amended to catch up with amendments to the British Nationality Act and the introduction of British citizenship, "(3) are on the qualifying date and on the date of the poll, British citizens, British Overseas Territories (as opposed to Dependent Territories) citizens, British Overseas citizens, British National (Overseas), British protected persons or British subjects under the British Nationality Act 1981 and are 18 years of age or over, and are not subject to any legal incapacity to vote". So there is no actual amendment to the basic eligibility criteria, which is British and six months

residence, the amendments come in the definition of what is British to reflect the amendments that have taken place to the concept of Britishness under appropriate British legislation. The proviso to section 3 restricts the registration and entitlement to vote by the wife to a person in the Armed Forces except the Gibraltar Regiment. Since women also serve in the Armed Forces, the term "wife" is thus substituted for "spouse". This is applied to the second use of the term "wife" in section 3(1)(b)(c) in connection to persons stationed in Gibraltar for business. So basically, references to "wife" are replaced by references to "spouse".

Section 4 is amended by clause 2(4) so that instead of the Governor appointing a Registration Officer, those duties shall be undertaken by the Clerk of the Parliament, who is the person who traditionally does it anyway.

Clause 2(5) amends section 5 of the principal Act, to require that a Register of Electors be compiled and published in 2007 and every four years thereafter, as opposed to 1991. In other words, in section 5 of the Act it says, "it shall be the duty of the Registration Officer to prepare and publish a Register of Electors in the year 1991 and every fourth year thereafter". Obviously it is a nonsense to leave the reference to 1991 that has passed, so we create a new anchor which is this year, 2007, then it is every four years thereafter. I suspect 1991 was introduced in around 1990 when the then Ordinance was last amended.

Additionally and together with clause 2(6), references to "Governor" are substituted by reference to the "Minister with responsibility for elections". That is in clause 2(6) which relates to section 6 of the Act which presently says "the Governor may from time to time by Order published in the Gazette, provide for the preparation and publication of a Supplement Register of Electors". That simply is changed to say the Minister, which is in effect how it has been for many years in practice, there has been a Minister with responsibility for elections now for quite some time.

Section 7 of the Act relates to the expenses incurred by the Registration Officer in connection with performance of his electoral registration duties and which are paid out of the Consolidated Fund. Clause 2(7) of the Bill removes the requirement that these be subject to the Governor's prior approval. A lot of these things are antiquated provisions that should be swept away. For example, this particular section says, "registration expenses" – that is to say expenses incurred by the Registration Officer in the conduct of the Election – "shall be subject to the prior approval of the Governor". Well, that has not been so for decades, the Registration Officer, I suspect, has not for some time sought the prior approval of the Governor for the normal expenses and it is just a sort of tidying up exercise to bring that up to date. He is the judge of the expenses that he incurs and whatever expenses he incurs are a charge on the Consolidated Fund, and I believe that is how it has been in practice now for many, many years.

Section 17 of the Act provides for the appointment by the Governor of the Returning Officer, by clause 2(7) the Returning Officer shall be the Registration Officer. So whereas the present legislation says the Registration Officer shall be somebody appointed by the Governor, the Returning Officer shall be somebody appointed by the Governor, when in fact our practice has been for many years that the Clerk of the House is both, we therefore in this Bill if we accept these amendments to the Act are saying, "look, the Clerk of the House is both the Registration Officer and the Returning Officer".

Clause 2(8) amends section 14(1) of the principal Act and increases the limit of expenditure that may be incurred in relation to the candidature of any person at an election from £2,000 to £3,000.

Section 17 of the principal Act is amended by clause 2(9) which provides that the Registration Officer shall be the Returning Officer.

Clause 2(11) amends section 22 of the principal Act to reflect the increase in size of the Parliament, whereas before when we were only voting for a Government of eight so to speak, because two members of the Government were not elected, now that the unelected members are no longer a part of this House, the Elections will be for up to ten candidates so that the Government continues to be ten strong but now ten elected rather than eight elected and two unelected. In a sense, that clause 2(11) of the Bill is the principal purpose of this Bill, reflecting the new Constitution which actually requires the Government to bring this legislation to this effect before the next Elections.

Clause 2(12) provides for the determination of the election of candidates whose votes are tied. Unless there are withdrawals a further poll will determine the outcome. This provision migrates from the Election Rules, where rule 44 provides that where an equality of votes is found to exist between any candidates, the Returning Officer shall forthwith decide between those candidates by lot. So here is a policy change that the Government is proposing. At the moment in the unlikely, (I say unlikely but I will give a couple of anecdotes where it has happened in other countries recently) in the unlikely event of somebody tying for the fifteenth berth in this House, what actually happens now is that the Returning Officer flips a coin. At the time when the majority was one, in effect, the Government of Gibraltar was being decided by the toss of a coin. I do not think it has ever happened in Gibraltar but it is not impossible mathematically for there to be a tie and the Government believe it inappropriate that the Government should be selected by the toss of a coin. What we are introducing is a situation whereby if there is a tie for the last seat, so to speak if I could call it that, then there is a new Election a few days later amongst those candidates that tied only. So in other words, the electorate gets to choose the Government rather than some game of chance.

Clause 2(14) amends section 25 of the principal Act to, inter alia, confer the power to make rules enabling voters to cast their votes prior to Election Day if they are not going to be in Gibraltar

on that day, or in cases where they will be in hospital on Election Day but have been informed after registration for absentee voters is closed. This is an issue that I bring to the House on the advice of those that organise our Elections. Our postal vote system is cumbersome and it, in effect, excludes people whose need to travel from Gibraltar arises at the eleventh hour, because there is not enough time for the paper to get to the destination, fill it up and come back. This is a set of rules that will have to be laid in this House but I have seen them in draft and I can tell the hon Member that what they do is that they provide a regime for people in those circumstances to be able to actually cast a vote before they leave. In other words, at a certain number of days before the Election, at some point the postal vote system becomes the advance vote system as the Election Day approaches. On that date, whenever that cut-off date is, there will actually be a ballot box here in the House and people who satisfy the Returning Officer that the appropriate circumstances have arisen, "I have not got any time now for the postal vote, I am being sent off to England for a medical appointment on Thursday", he will be able to put in his vote on Wednesday or on Tuesday. But it will actually be an actual vote, in person, by that person in a ballot box – it will not be postal vote so it is literally advance voting. The intention is not to disenfranchise people who by virtue of the cumbersome nature of our postal vote system, and there are always a dozen or so people who for medical reasons or others find themselves unable to vote because they have to leave Gibraltar at the last minute.

Clause 2(15) provides for the substitution of section 86 of the principal Act, with a section that enables a Member of the Parliament to sit as Speaker when the Speaker is absent for a reason other than one provided for in section 26(5) of the Constitution. The reason for the last bit is that section 26(5) of the Constitution itself says what must happen when the Speaker is absent for one of those reasons and we cannot interfere with the Constitution. If the Speaker were to be absent for any other reason, for example, if he started to feel unwell and wanted to stand down and go home, something a little bit more run of the

mill, whereas before it would have been the Attorney General it would now say "the powers and privileges vested in the Speaker by this Act shall in the absence of the Speaker for any reason other than a reason mentioned in section 26(5) of the Constitution, be vested during a sitting of the Parliament in the person appointed by the Parliament to preside at that sitting of the Parliament and any such person may be a Member of the Parliament". So, basically, it is just again a provision to accommodate the change in circumstances following the new Constitution.

Clause 2(19) amends references to "Financial and Development Secretary" in section 101 of the principal Act by substituting the reference to "Financial Secretary".

Clause 2(20) amends Schedule 2 of the Act to update and, where obsolete, delete the references to the various posts therein stated.

With the exception of the points that I have highlighted to the hon Members during this address, all of the other amendments are of nomenclature and things of that sort. I think I have pointed out to hon Members all the ones that are not secretarial in nature. Of course, this legislation does not deliver any degree of reform of the electoral system, except in relation to this advance voting business and in relation to the increase of the vote from eight to ten. I commend the Bill to the House.

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

HON J J BOSSANO:

I want to raise two points in relation to what the Chief Minister introducing the Bill has said. On the question of the deletion of the definition of what is "industrial employment", I can understand that if it is defined by reference to employment covered by the Joint Industrial Council that no longer exists,

then of course since the Council does not exist industrial employment cannot exist for that reason. In fact, in the clause that we are amending the Schedule, clause 2(20)(a), deletes industrial employment from the Schedule. My reading of this is, in fact, to eliminate the ability to stand for election of the people who are in industrial employment, however defined, unless they are contained in one of the classes in subparagraph (b). What the Schedule does is to give effect to the provisions of section 10(1) which says that a person, notwithstanding the fact that he holds an office of emolument directly under the Crown, if he is in one of these jobs he can still stand for election, provided he gives up the job if elected to the Parliament. That has always been the case before it was extended to non-industrials. Going way back to 1972 it was still the case, it was already the case with industrial workers. Industrial workers have always been able to stand for election right from the beginning. Now, I accept that the first amendment which is to remove the definition of "industrial employment" by reference to the Joint Industrial Council makes a lot of sense, because otherwise industrial employment by that definition cannot exist. But if there are people in industrial employment now and we remove industrial employment, then it means that unless they are covered by one of the subparagraphs in (b), which I do not think they are from my reading of it, then we are unintentionally saying industrial workers cannot stand for election, as I read this. I may have misread it but that is my reading of it.

The other point I would like to make is in relation to the new element of allowing people to deposit a vote before they go off if it is a late development in terms that they did not realise they were going to be away at the time of the election, which makes sense, we support it. If this is going to be done by some regulation, can the Government then not also look at the other side where we have, in my experience, people who when they are bedridden or in hospital have got a date by which they have to register the fact that they are going to be ill on polling day. My experience is that it creates a lot of difficulties, not in numbers involved obviously, when we have got people who are either taken ill after the date and have to be brought to the

polling station because they got ill too late, or get well after the date, in which case they have to go back to the hospital to be there when the roving box arrives. So I wonder if some wording can be found which allows for changes in voters who are ill. I accept that the logical thing is that we should have a date just to get rid of the bulk of them, but that there needs to be a flexibility because there are always half a dozen people who either get well or get ill after the closing date for them to be registered. I think that since we are doing things to make it easier for people to vote, as we should, and to maximise those who participate in the elections to the Parliament, then I would like the Government to consider giving attention to that particular point.

HON CHIEF MINISTER:

Let me say that what he has just said to me is exactly what I said to this army of election official experts and they persuaded me that I was wrong. I hope that I can remember all the arguments to persuade him that he is wrong too. I should prefix this by saying that this is one of the areas that is in grave need of modernisation and amendment. I do not think these provisions work, well they work as they are intended because there is consensus about what they are supposed to mean and that is how they operate in practice. But I do not believe, reading it as a lawyer rather than as a politician, that these sections actually say, for example, what the hon Member has just said, which has always been my understanding of what the position is. But it does not and, therefore, I have been advised given that we are so close to an election that the sort of reform that would be needed to get these sections to say what they should say, is too profound an electoral reform to promote in an election year. So I have not touched this and I have just limited myself, the Government have just limited themselves to correcting the one thing that could be pointed to, as something that actually disqualifies. Now, I do not know if the hon Member has got a copy of the legislation in front of him, he probably has not, the old House of Assembly Ordinance. If he looks at section 10, the old section 10 which is the one to which this

Schedule 2 refers, I would like him if he has it in front of him to actually look at section 9 which creates the basic regime first. There is more than a little bit of folklore about what these rules are, and whilst everyone has always operated them in a certain way, my reading of the law is that, in fact, the law does not actually provide what people actually think it provides. Section 9, under the heading "Eligibility of Public Officers", section 9 says "a person shall not be disqualified for election as an Elected Member of the House of Assembly by virtue of his holding or acting in a public office, or class of office specified in Schedule 1". So Schedule 1 are the people who are not disqualified despite holding that office. So in other words, if one is a Schedule 1 office holder one can act, and Schedule 1 is holders of any public office under the Crown in right of Her Majesty's Government in the United Kingdom. Now, section 10, public officers who may be candidates for elections, this is thought to be a restrictive clause but actually it is a permissive clause. It says, "a person may stand as a candidate for election as an Elected Member of the Assembly notwithstanding that he holds or is acting in any public office or class of public office specified in Schedule 2, if he undertakes in accordance with this section to relinquish or cease to give up". That does not mean that one otherwise cannot, it means that one otherwise can. In other words, there is nowhere in this Act, nowhere in this legislation is there actually a prohibition, a restriction on such officers standing for election. That is contrary to what had been my understanding and everybody else's understanding. Section 10(1) says, "a person may stand as a candidate for election as an Elected Member of the Assembly, notwithstanding that he holds or is acting in any public office or class of public office specified in Schedule 2, if he undertakes in accordance with this section to relinquish". So, what are the consequences of somebody not being on that list? For example, what would be the consequences of us removing "industrial employee" from the list? The effect is that they can stand and they are not required to give up their job, not that they cannot stand. Now, that is not what anybody has understood the position to be until now because section 10(1) simply says that if one is on the list, one has to give up the post but if one is not on the list one does not

have to give up the post and there is no restriction on one standing. So I think the House has to decide what it wants the law to be and make sure it says it clearly. I do not think this legislation says what everybody has assumed the position to be. In other words, people had always assumed that one could not stand for election unless one gave up the job. That is three quarters true. It is true that this section means that if one is on this list and stands for election, one has to give up the job but the reverse is not true. The section does not say that if one is a Civil Servant who is not on this list one cannot stand. Therefore, the effect of removing somebody from this list is not that they cannot stand, it is that they do not have to give up their job to stand. That may not be the position that this House wants but it is the sort of statutory amendment necessary to bring about whatever position the House decides that it wants, is not something that I was advised that I should do so close to the election. So my understanding is that this election will proceed as per normal. I am happy to give way to the hon Member, yes.

HON J J BOSSANO:

Well, I have not gone through every clause in that legislation but, certainly, I can tell the Chief Minister that since 1972 when I arrived here, the position has been as we all understood it then that there was a specific prohibition that anybody holding an office of emolument under the Crown was debarred from standing. In fact, one of the problems that arose following the 1969 Constitution was the City Council employees becoming Civil Servants, whereas before City Council employees would stand for the LegCo elections and Colonial Government employees, as they were called in those days, could stand for the City Council because they were not working for the entity to which they were standing for election. When the two were merged, it would have meant effectively that practically nobody could stand for election other than people working in the private sector, who presumably were under pressure from their employers as to whether they could stand or not. So it would have been very difficult to find any candidates for the election

other than self-employed people. Therefore, it started off being introduced on the basis of industrial workers only. The list was, notwithstanding the fact that there is something else somewhere else which may have disappeared in the intervening years without anybody realising it, but it must have been there at the beginning because the list was always, as it were, a derogation from that prohibition.

HON CHIEF MINISTER:

He may be thinking of General Orders. But, of course, General Orders cannot dispossess somebody's right to stand for Parliament. The only thing that can dispossess somebody's right to stand for Parliament is an Act of Parliament. General Orders is something as between one and one's employer. Well, look, something as between one and one's employer cannot be what decides whether an individual is free to stand for Parliament or not stand for Parliament. I believe that the position, even as far back as 1972, has been that one has only got to give the job up if on this list. So that since whenever the Joint Industrial Council ceased to exist, or whatever the phrases that we are eliminating, since that ceased to exist as far as the law of the land is concerned, no industrial officer has been under compulsion to give up his job in order to stand for election, because the only industrial officers who were obliged to give up their jobs in order to stand for election, were those employed under the terms and conditions are decided after negotiations in a body known as the Official Employers Joint Industrial Council. That is how the law has been structured, it has just fallen through disuse of certain institutions which were key to a definition, which were in turn key to deciding who had to give up their job and who did not. No industrial employee, since this definition became meaningless, has actually had to give up their jobs because they are not on the list. If one is not on the list of Schedule 2 one can stand for election with no obligation under section 10(2) to give up one's job in order to do so. That is the inescapable reality because there is no other law anywhere other than these two sections. Only the House of Assembly

Ordinance, now the Parliament Act, is the law that sort of disenfranchises people from standing for election. If it is not here it is not effectively anywhere else.

HON J J BOSSANO:

First the industrial workers have never been subject to General Orders, there is nothing in General Orders about industrial workers. So industrial employment is not covered by General Orders in fact. The Joint Industrial Council definition, of course, is no longer applicable in terms of deciding who is in industrial employment. But then what we are saying is that by removing industrial employment from this list, industrial workers will be able to stand for this election and not give up their job. Is that the position that we are legislating?

HON CHIEF MINISTER:

No, we are not legislating that – in my view, that has been the position now for many elections. That has been the legal position for many elections and we are not doing anything to change it now. So it is not that we are legislating that situation.....

HON J J BOSSANO:

The Chief Minister said previously that the effect of the list was that if one was on the list one had to give up one's job and if not on the list one did not have to give up one's job. Therefore, the position until we remove industrial employment from the Schedule is that industrial workers have to give up their jobs.

HON CHIEF MINISTER:

No, I have not sufficiently clearly put my principal point. Industrial employees are not on the list. What is on the list is industrial employment, which if it stopped there would be interpreted to mean what he and I understand by industrial employment. But it does not stop there, industrial employment is a defined term. Therefore, one cannot just read into the reference in industrial employment in the Schedule, the list, whatever we would normally understand by industrial employment – as we could if it were not a defined term. But it is a defined term, so what does the reference to industrial employment mean in that list? Who are the people who can only stand for election if they give up their jobs under the heading "industrial employment"? One has got to go to the definition of "industrial employment" and it is, "industrial employment" means employment the terms and conditions of which are decided after negotiation in the body known as the Official Joint Industrial Council. Well, as that body no longer exists, there is nobody under the definition of industrial employment, because there is nobody whose employment the terms and conditions of which have been decided after negotiation in the body known as the Official Joint Industrial Council. Therefore, for all practical purposes already and since that body ceased to exist, Schedule 2 properly interpreted, the reference to "industrial employee" applies to no one. Therefore, there is no industrial employee who has been under an obligation to give up their job in order to stand for election since that body ceased to exist. So, we are not changing that, what we are not doing is correcting it. In other words, we are not saying here, as we could be if we wanted to, we could be putting here industrial employment means industrial grades in the Government of Gibraltar. We could do that, that would have the effect for the next election of not enabling industrial employees in Government to stand for election without giving up their job. Of course, they can stand for election by giving up their job, we are not debating that. What we are debating is whether as the law presently stands, an industrial employee has to give up his job in order to stand for election. What the Government are

saying is, we are advised, that as the law now stands because of this definition of industrial employment, industrial employees are not required to give up their jobs to stand for election. Now, to legislate, and that is not because everything that we are doing now, that is the law as it stands before we look at this Bill, forget the Bill, as the House of Assembly Ordinance or Parliament Act unamended now stands, there is nothing in it that requires any industrial employee, unless their terms and conditions were negotiated by the Joint Industrial Council, answer none, who? none therefore, legislation now would be. No let us correct that, let us say just as the next item down is administrative and executive grades, let us put here industrial employment. Another way we could do it more simply is instead of deleting the item "industrial employment" from the list, we could simply repeal the definition of "industrial employment". If we did that.....

HON J J BOSSANO:

We have done that already.

HON CHIEF MINISTER:

No, we have not done it yet. The Bill purports to do both, it depends. If we wish to retain, it is just that the Government have not wanted to change the purport of the law, whatever it is. The Government have taken the view that so soon in an election year, so close to an election, whatever the law is good, bad or indifferent, clear or unclear, should be left as it is. We should not be seen to be altering anybody's entitlement from what it is under the law, whatever it may be. But if we were clear that we wanted to require industrial employees to give up their jobs in order to stand for election, we could do it very easily just by deleting the definition of "industrial employment" from clause 2 of the Bill, not deleting the item "industrial employment". We would proceed with the amendment in clause 2(2)(a)(i) on the front page of the Bill but we would not proceed with the

amendment on page 893, at clause 2(20(a)). In other words, we would not delete (a) industrial employment or. The Government are content so long as the House understands that we are doing it and we do it and relieves the Government of any issue that derives from changing the election legislation in what could be an election year. I am very happy to play it either way.

HON J J BOSSANO:

I am quite happy with the second division. My only concern was that unless somebody was on the Schedule, he should not be able to stand because that is the way it has been interpreted until now. If the Government are convinced that we are not doing that then we do not mind leaving it. Our concern for wanting.....

HON CHIEF MINISTER:

He has some candidates who are industrial employees.

HON J J BOSSANO:

Well, I am more likely to have them than he is. Let us put it that way. But of course, my concern was that inadvertently, given his original explanation, that we were not doing that. We might be doing that given that that is how I have understood it in the 35 years I have been here. It is a long time to have been in Parliament with a mistaken, erroneous interpretation of the law shared by the entire Parliament. We do not mind it staying there as long as the effect is not what I feared it might be.

HON CHIEF MINISTER:

The issue is whether what happens after because we are concentrated on standing for election, but there is also the

question of after the election. There is the issue, of course, if one is elected and won the election one would then find oneself being, presumably, possibly a Minister and in the employment of the Government in an industrial purpose. Indeed, there are Members of this House who are on the list. For example, the Hon Mr Linares is on the list, I do not see anybody else. We have to be careful, my understanding is that it would continue to be interpreted in the same way. I was not envisaging anybody acting on my legal advice, because otherwise what the Government would do is change the legislation. Not because there is any difficulty but because I do not think we can create a situation where an industrial grade has to give up his job but, for example, does not have to give up his job but for a teacher what is the difference? What is the difference in terms that are relevant to the need to give up one's job to be in Parliament. We would have to be very careful that we are not creating an unequal, a dislevel playing field by people that really cannot be distinguished between in terms of whether they should or should not have to give up their job in reality. For a technicality that we were not sort of perpetrating that injustice, I mean, teachers, nurses, firemen..... who are on the list. They would say, why should a tradesman in the Buildings and Works Department be able to stand for election without giving up their job and not me? It is going to be a pretty tough question to answer. If it is a sort of clerical or administrative grade, we say, "well alright, you cannot that is logical because you could be involved in administering Government policies, working in a mainstream Government", but these sort of local authority grades almost, as they would be elsewhere, it is not possible to distinguish between them. So, if the hon Members would support, I am not willing to move this amendment without consensus in the House.

HON J J BOSSANO:

We are happy to carry on with the Bill as it is, on the basis that this is not removing industrial employment from eligibility to stand for election. Let me say that if the Chief Minister is correct

in his analysis in respect of that, then of course it does mean that people have been illegally stopped from standing for election to my knowledge and in my time.

HON CHIEF MINISTER:

They have not been illegally stopped, they have been without sufficient statutory basis required to give up their jobs. No one has stopped them from standing for election.

HON J J BOSSANO:

What he has just said means that if there was a grade in the Government today that is not there listed, I think the difficulty with the interpretation that the Government have given, which we thought that they had not realised that they were inadvertently removing industrial workers from standing. It is not an explanation that I have ever heard before. The difficulty I have with the explanation that he has given as being the correct interpretation after all these years, is that the people who are not on the list cannot stand at all. So on what basis are they being stopped? The more senior grades are not here and he is saying that the senior grades can stand for election without giving up their jobs, and that that is the correct interpretation of the law.

HON CHIEF MINISTER:

What are the most senior grades?

HON J J BOSSANO:

The Chief Secretary.

HON CHIEF MINISTER:

He is not correct there because there is a general class, administrative and executive grades.

HON J J BOSSANO:

That includes everybody right up to the top?

HON CHIEF MINISTER:

Yes. Administrative and executive grades, messengerial grades, typists, personal secretaries, senior personal secretary, professional and technical officer grades, they are all there in the list.

HON J J BOSSANO:

Then, inadvertently, the list may be longer than it was unamended because clerical grades certainly did not include the Accountant General or the Principal Auditor. The position in all the time that I have been here has been that we have been adding people to the list further and further up the public service. We started with industrial workers only and then we added clerical workers, then we added PTO IVs at one stage but not PTO IIIs. Of course, at one stage when we added PTO IVs it said PTO IVs, whereas the others there was a total prohibition in the case of the lower grades it was agreed that somebody had to take leave and if elected he had to give up his job. Now that distinction, depending on the seniority of the post, if the Chief Minister is right and it has now disappeared, well it means that now everybody can stand provided they give up their job. But certainly my recollection of the situation was that the system actually opened up to more grades with every amendment.

HON CHIEF MINISTER:

I am not arguing against the Leader of the Opposition. I started off by saying that a system had been created in Gibraltar, that everyone was keeping to it, that it was a combination of House of Assembly Ordinance, General Orders and other things and that the Government, my own view actually as a lawyer, is that I do not think General Orders is capable of preventing one standing for election. It may cost one's job, one may be sacked by one's employer but only the laws passed in this Parliament can curtail somebody's right to stand for the Parliament. When we look at that law it is two sections long, one of them only applies to UK Civil Servants and the other only says that the people on the list, it is not that they cannot stand for election, there is not a general prohibition, because it is silent there is a presumption that everybody can stand. The only constraint is, the only restriction is that if one is on this list one has got to give up one's job. Now, there are other things said which everyone has played by the rules in other places, General Orders and things of that sort. My personal view is that it is not enough for it to be in General Orders. I am not the Returning Officer, I am not the House, I am not the Supreme Court that would have to decide on the validity of a candidature, I am saying I am only responsible to the extent that I promote or do not promote legislation, and we are promoting this removal to remove from our election legislation a definition which is nonsensical because it does not exist. There is no such thing as a Joint Industrial Council and, therefore, there is no point in having a definition in it that refers to it because it is a non-definition. I would hope that until the next Parliament can get to the bottom of this, and do the legislation properly and have a Select Committee of the House or whatever the system is to look at these things, will do it and that in the meantime everybody will agree to carry on carrying it out as they have in the past. The Government are not trying to change anything, nor signal nor flag up that it is now okay or safe to behave differently. All we are saying is we do not want to go to the next election with a definition in our laws, the effect is not to disenfranchise anybody. That was the principal issue concerning the hon Member, removing this

definition does not have the effect of disenfranchising anybody from the right to stand.

We never got round to discussing the Leader of the Opposition's second point. I will certainly suggest the point to those who are drafting these rules, to see if there is not already something in there that accommodates it. As I understand the Leader of the Opposition's point was that just as we are making provision for people who have not made postal voting arrangements because they did not know they were going to be away, that the reverse may also be true. That there may be people who have made postal voting arrangements and find that they are back sooner than they expected. That is how I have understood his point.

HON J J BOSSANO:

I was actually making that point but not about people who are away. Although I think it is true that if somebody gets back and he has voted already then he has voted already, what he cannot do is vote a second time. I am talking about people who are bedridden and who have to register for the vote, maybe in hospital or maybe at home and there are people who, in my experience, there is usually half a dozen people that complain that either they got ill after the closing date when that had to be registered, or that they have got well and they are told when they get to the Polling Station that they cannot vote there because they are supposed to be in hospital. I think we should look at those rules and see if something can be done about those.

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 INTERPRETATION AND GENERAL CLAUSES
(AMENDMENT) ACT 2007**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Interpretation and General Clauses (Amendment) Act, be read a first time.

Question put.

Agreed to.

COMMITTEE STAGE

HON CHIEF MINISTER:

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

1. The Public Appointments Bill 2007;
2. The Parliament (Amendment) Bill 2007.

THE PUBLIC APPOINTMENTS BILL 2007

Clauses 1 to 24 – were agreed to and stood part of the Bill.

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

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

THE PARLIAMENT (AMENDMENT) BILL 2007

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

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

THIRD READING

HON CHIEF MINISTER:

I have the honour to report that:

The Public Appointments Bill 2007;

The Parliament (Amendment) Bill 2007 have been considered in Committee and agreed to without amendments and I now move that they be read a third time and passed.

Question put.

The Public Appointments Bill 2007;

The Parliament (Amendment) Bill 2007

were agreed to and read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Tuesday 26th June 2007 at 2.30 p.m.

Question put.

Agreed to.

The adjournment of the House was taken at 10.50 a.m. on Tuesday 19th June 2007.

TUESDAY 26TH JUNE 2007

The House resumed at 2.30 p.m.

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

BILLS

ABSENT:

The Hon Miss M I Montegriffo

IN ATTENDANCE:

M L Farrell, Esq, RD - Clerk to the Parliament

SUSPENSION OF STANDING ORDERS

The Hon the Minister for Trade, Industry, Employment and Communications moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of reports on the Table.

Question put. Agreed to.

DOCUMENTS LAID

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

1. The Employment Survey Report for the period ended October 2006;
2. The Tourist Survey Report 2006;
3. The Air Traffic Survey Report 2006;
4. The Hotel Occupancy Survey Report 2006.

Ordered to lie.

FIRST AND SECOND READINGS

THE APPROPRIATION BILL 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to appropriate sums of money to the service of the year ending on the 31st day of March 2008, 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 seeks to authorise the Accountant General, under the authority of a General Warrant issued in accordance with the provisions of the Public Finance (Control and Audit) Act, to pay out of the Consolidated Fund of Gibraltar for the year ending 31st March 2008, that is the financial year upon which we are now embarked, the sum not exceeding in the aggregate £177,607,000. Also, that by similar General Warrant, in accordance with the same Act, he may pay out of the Consolidated Fund of Gibraltar for the year ending 31st March 2008, the sum not exceeding £15,010,000 and that, Mr Speaker, by way of contribution from the Reserves. Also, in relation to the Improvement and Development Fund, that the Accountant General may by similar Warrant and in accordance with the provisions of the same Act, pay out of the Improvement and

Development Fund for the year ending 31st March 2008, the sum not exceeding £39,858,000.

Mr Speaker, it is an honour and a privilege for me to present my twelfth successive Budget of Government revenue and expenditure, and to report to this House on the state of the economy and of the public finances.

Following the introduction of the new Constitution, this is the first time that the Estimates of Revenue and Expenditure were laid, under Section 69 of the Constitution, by the Minister for Finance and not by the Financial and Development Secretary, as has been the case constitutionally until now. Furthermore, this is also the first time that the Governor's consent is not required to proceed upon the Appropriation Bill under Section 35 of the Constitution. The House now proceeds constitutionally on the Appropriation Bill upon the recommendation of the Minister for Finance which, as the holder of that office, I am pleased to signify.

Once again, I am able to report to this House that in terms both of public finances and of the economy as a whole, Gibraltar's overall economic position is excellent, indeed has never been better. In summary, we have a record budget surplus. A new all time record overall budget surplus has been achieved in the year just ended: £24.8 million. The narrower Consolidated Fund surplus was even higher at £25.1 million. We have record public reserves. The Government's capital reserves stand at an all time record of £100 million. This compares with £40 million in 1996. We have record levels of employment in the economy. The number of jobs in our economy stands at an all time record high of 18,485, up 1,600 jobs or 9.5 per cent over last year, that is the previous year. Other indicators are, for example, that effective rates of tax are down to record low levels; economic measure of public debt shows that public debt is at a record low level; and the economy continues to grow at between 7 and 10 per cent per annum. By any and every known measurement of economies, the economy of Gibraltar is very strong and growing well.

This economic growth is what enables the Government to lower taxes for everyone; to eliminate taxes for our pensioners; to improve and expand our health and social services for everyone; to build new public amenities; to improve public housing; to pay higher wages, in short to improve the standard of living of every Gibraltarian and to make every Gibraltarian financially better off. Without growing the economic cake, it cannot be shared out in thicker slices to every citizen. Indeed, without this economic development, growth and success, the Government could not afford the budget measures that I shall be announcing today. Mr Speaker, every Gibraltarian has a stake in our economy, whether he works in the private or public sectors, or whether he works or not. Every Gibraltarian has a stake in the Finance Centre, and in the gambling industry and in real estate developments, whether luxury or affordable homes, or mid-market price range homes or office developments. Everyone in Gibraltar, not least the Government, wants to see Gibraltar's developments take place in a balanced way: sympathetic with the environment and surroundings; providing open and green spaces and new roads and parking spaces, and schools and public amenities, growing Gibraltar, but in a way that enhances the quality of life, as well as the economy.

Mr Speaker, some of the Government's political detractors have taken to inaccurate criticism of the Government's policy in this respect. During the next few months we will show that no Government before this Government has ever taken the care that we have taken to ensure this balanced approach to development. We will also show that this Government has taken to record levels the maximisation of sale proceeds that it has been able to obtain for the sale of public assets, and in the process the transparency with which it is done, thus maximising the benefit to taxpayers, and maximising the public amenities that we have been able to build for all Gibraltarians, with those sale proceeds. Suggestions that the Government undersells assets or allows a "free for all" for developers, or does not

ensure balanced development will be shown to be the very opposite of the truth. We are proud of our record, and of the massive benefits and improvements that it has brought to Gibraltar and to every Gibraltarian. Gibraltar must continue to grow, develop and modernise if we are to retain regional leadership and if our future generations are to be able to afford the things and standard of living that we take for granted and enjoy today. Development and success on this scale, which guarantees our future prosperity, certainly results in disruption and inconvenience while it is taking place, that some may wish to exploit for short-term political opportunism. But what is at stake is our economic and social legacy to our children and to grandchildren. We will continue to deliver both that legacy and improved quality of life and improved environment for the citizen of today and of tomorrow.

Mr Speaker, during this last year the Government has taken the initiative to resolve the MOD Contractorisation dispute that threatened the livelihoods of hundreds of families in Gibraltar and the peace of mind during coming years of hundreds more. In doing so, we have not only lifted the threat of job losses and job insecurity from hundreds of families, but we have been able to deliver stability of employment within the MOD for hundreds more for years to come. These agreements also represent the first time ever that a Gibraltar Government shapes the way the MOD does things in Gibraltar and thus its social and economic impact on Gibraltarians. It has required a huge effort of time and ideas. But it has been worthwhile just to see the sense of sheer relief that the result has brought to 1,000 families in Gibraltar. As is known, the agreements have several elements. Firstly, those who wish to take early retirement or voluntary redundancy will be able to do so on enhanced terms; secondly, the threat of future job security to ISP workers has been removed by the innovative Government of Gibraltar Company Secondment Model that the Government has provided; thirdly, the Government will take over the running of various MOD services, thus protecting the job security of staff in those areas as well as allowing for rationalisation and consolidation with the Gibraltar Government's own similar services; fourthly, jobs have been

preserved within the MOD for the future; and finally Government has provided an employment safety net for anyone who loses their job as a result of these ground-breaking agreements. Mr Speaker, contrary to what some of the Government's well known critics have said, these agreements do not make it easier for the MOD to leave in the future. In fact, the opposite is true, they make it easier and more likely that they will stay for longer. Failure to have resolved the ISP dispute, indeed, is what would have hastened MOD's departure from Gibraltar, as well as risk a humiliation of hundreds of Gibraltarian workers and the financial destabilisation of hundreds of local families. Contrary to what these same critics say, the Government is not subsidising or underwriting the cost of any service to the MOD. Under the agreements, the MOD will pay to the Government the full capital and operational costs that the Government incurs now and in the future, of providing the services to the MOD. This is a model that suits everyone, it suits Gibraltar, it suits the MOD, but most importantly it suits many hundreds of MOD workers and their families. We believe that these agreements will bring a stability and consensus to MOD activities in Gibraltar in the future from which all three constituencies will be big winners.

Recent public disputes about the level of landing charges and the sudden MOD decisions to increase charges to airlines without regard to the commercial implications to airlines, and thus without regard to the economic and social implications to Gibraltar, served to show that in modern Gibraltar it is inappropriate for the MOD to be in control of commercial relations with civilian users of Gibraltar Airport. By the same token, we accept that in modern, economically prosperous Gibraltar it is no longer easy to justify that a reducing and under strain defence budget, should continue to subsidise and bear the cost of purely commercial, civilian operations at Gibraltar airport. Accordingly, the Government of Gibraltar and the MOD have agreed the terms of an agreement whereby the Gibraltar Government will assume responsibility for commercial relations with civil users of the airport, and for the economic aspects of civilian use. Accordingly, Government of Gibraltar will assume the conduct of all commercial interface with airlines and other

civilian users, including capacity management and commercial flight scheduling. Government of Gibraltar will also establish the level of, collect and keep for its own account, all landing charges, aircraft parking fees and all other fees payable by civilian aircraft using the airfield. In return for control over the commercial aspects of civilian use of the airfield, and Government of Gibraltar retaining landing and parking fees which previously have been paid to and kept by the MOD, Government of Gibraltar and MOD will share on a 50/50 basis the cost to the MOD of providing airfield services used by both civilian and military aircraft. The Government of Gibraltar will pay the whole of any other costs caused exclusively by civil aircraft usage, for example, extension of airfield opening hours. The MOD retains ownership of and operational responsibility for the aviation aspects of the airfield and indeed ownership of the airfield itself, and will continue to provide all the aerodrome and air traffic control services that it now provides to commercial and other civilian aircraft. This agreement will enable the Government to set airline operating costs to Gibraltar, that is, landing and parking fees and the like, and to deal with airlines in a commercially appropriate manner, in the economic and social interests of Gibraltar, and the airlines and passengers that use our airport.

Mr Speaker, the Government has already recently announced plans for a magnificent new Gibraltar Air Terminal, which will be situated entirely in Gibraltar. This terminal will provide Gibraltar with a modern, attractive air terminal which will reflect the economic success of Gibraltar and our economic and social aspirations for the future, as well as meeting our future air travel needs in a way more like is done in the rest of Europe. The location and internal design of the new terminal will reflect the commitments entered into by the Government with Spain in Cordoba. But, as I have said many times, the terminal and all activities within it will remain in Gibraltar, under the exclusive jurisdiction and control of the Gibraltar Government. No Spanish authority will have any role whatsoever in the running of the airport. Mr Speaker, this excellent agreement is hugely in Gibraltar's social and economic interests. We fully expect it to

provide a further boost to the economy, in addition to the boost to the economy and to confidence provided by the mere fact of having reached a good political agreement with Spain on the matter. The Government is of course fully committed to implementing the whole of this excellent agreement. Indeed, only the whole agreement can be implemented, since clearly the agreement will collapse if anyone tries to cherry pick it, that is to pick and choose the bits that should be implemented. The tender process for this project is already under way. The Government has not yet made a final decision on the precise financial model for the execution of the project. EU Funding will be sought, and it is probable that the Government will use some form of Private Finance Initiative model as it did in the case of the new hospital. The Government expects the Air Terminal to be economically self-financing. Allied to the Air Terminal project, the airfield underpass tunnel and the new Devil's Tower Road/Eastern Beach dual carriageway and related multi-storey car parks will hugely decongest traffic, eliminate airport related traffic delays, significantly improve free parking facilities for nearby residents and enable the Government to operate "park n ride" facilities for visitors, thus further decongesting traffic flow and parking facilities throughout Gibraltar. These projects are key elements of the Government's projects for Gibraltar's continuing success well into the future.

Mr Speaker, the Government is convinced that Gibraltar's present and future housing needs are best met by a combination of affordable home ownership and new Government rental estates. Affordable home ownership by itself is not enough, many people cannot comfortably afford even what others call "affordable" housing. Hence the Government's decision to build a new Government rental housing estate in the Mid Harbour reclamation, which will be one of Government's largest housing estates. Plans of this estate will be revealed soon. As part of this commitment to building new rental homes for the future, the Government will very soon offer eligible, existing Government tenants including those in post war housing the right to buy their homes. The capital raised will be used by Government only on building more Government rental housing. By unlocking this

“sleeping capital” in this way more Gibraltarian families can be housed in a way that is affordable to them. The overall housing stock will be increased.

Mr Speaker, the tax exempt company has been the backbone of the development and growth of both our finance centre and the online gambling industry, and thus of a very significant part of our economy. It continues to underpin thousands of jobs in Gibraltar and large amounts of Government revenue. In order to comply with EU law, we must phase out the tax exempt company in 2010. However, in order to sustain our successful economic model we must retain a commitment to a very competitive corporate tax model. Since it is no longer legally possible to have one tax model for “local” companies and a different one for “foreign” companies, it is necessary to have a low tax system for all companies because without a low tax system for overseas companies they will leave and our economy will suffer and shrink hugely. Thousands of jobs would be lost, as well as significant Government revenue. I have therefore already said, and I reaffirm now, that the Gibraltar Government is irrevocably committed to the principle of low tax for our economic operators. By mid 2010, the Government will have introduced an across the board flat, low corporate tax rate. This will most probably be set at 10 per cent, but in any event not higher than 12 per cent. This will be similar to arrangements that already exist in Ireland, Cyprus, Malta and other EU countries. In the intervening period, the Government will engage in an intensive, detailed and lengthy process of consultation with the different economic sectors to manage the transition from one system to the other. In order to signal the Government’s seriousness of purpose in this respect, I am today taking the first step in the process of reducing corporate tax rates generally in Gibraltar, by 2 per cent for the year of assessment 2007/2008 from 35 per cent to 33 per cent, and with effect from the year of assessment 2008/2009 by a further 3 per cent from 33 per cent to 30 per cent. I would also signal the intention of a further reduction the year after that to 27 per cent, in anticipation of the introduction of the flat low tax rate in 2010.

Mr Speaker, public finances remain in a healthy and robust state. As I have said, public reserves stand at a record high level and public borrowing stands at very low economic levels. By way of comparison, our public debt which has been static at £93 million for several years, now represents less than 15 per cent of Gross Domestic Product. This reflects a very low level of Government borrowing when compared, for example, to the UK’s public debt which currently stands at 43 per cent of GDP, or to the EU maximum benchmark which is 60 per cent of GDP under the convergence criteria established in the Maastricht Treaty.

The overall revenue and expenditure budget was in surplus in the year just ended on 31 March 2007 by an all time high of £24.8 million, an increase of £2.7 million over last year’s then record surplus. The Consolidated Fund budget surplus by itself stood at £25.1 million. This £24.8 million overall surplus was £7.5 million higher than we estimated at the start of the year. The Consolidated Fund surplus of £25.1 million reconciles with the overall surplus of £24.8 million after account is taken of the £400,000 of exceptional expenditure and the small net surplus of £100,000 from the Non-Consolidated Fund Reserve Balances. Overall revenue and expenditure figures exclude inter-account contributions in order to avoid double counting.

Overall Government revenue stood as £260.7 million last year, which breaks down as follows:-

	2006/2007 £'million	2005/2006 £'million
Consolidated Fund	212.1	198.3
Gibraltar Health Authority (GHA)	27.2	26.2
Gibraltar Electricity Authority (GEA)	17.9	16.6
Elderly Care Agency (ECA)	0.6	0.6
Gibraltar Development Corporation (GDC)	2.9	4.3
	<hr/>	<hr/>
	260.7	246.0

This represents an increase in overall revenue of £14.7 million or 6 per cent. Of this £14.7 million, £13.8 million is represented by an increase in revenue in the Consolidated Fund, which actually saw a 7 per cent increase in revenue over the previous year, derived mainly from income tax, mainly due to higher levels of employment, and despite last year's tax cuts, and also to higher revenue from import duty.

Overall Government expenditure stood at £235.9 million last year, which breaks down as follows:-

	2006/ 2007 £'million	2005/ 2006 £'million
Consolidated Fund	134.5	131.4
Gibraltar Health Authority (GHA)	55.4	50.5
Gibraltar Electricity Authority (GEA)	24.5	21.6
Elderly Care Agency (ECA)	6.2	5.7
Gibraltar Development Corporation (GDC)	6.0	5.8
Social Services Agency (SSA)	4.1	3.8
Gibraltar Sports and Leisure Authority (GSLA)	1.3	0.9
Social Assistance Fund (SAF)	3.5	3.6
	<u>235.5</u>	<u>223.3</u>
Consolidated Fund Exceptional	0.4	0.6
	<u><u>235.9</u></u>	<u><u>223.9</u></u>

This represents an increase in overall expenditure of £12 million or 5.4 per cent. The main contributors to that overall net increase in expenditure of 5.4 per cent were as follows:-

	£'million
Consolidated Fund Charges	-1.6
Departmental Payroll Costs	+0.8
Contracted-Out Services	+2.2
Departmental Other Charges	+1.7
Gibraltar Health Authority (GHA)	+4.9
Gibraltar Electricity Authority (GEA)	+2.9
Elderly Care Agency (ECA)	+0.5
Gibraltar Development Corporation (GDC)	+0.2
Social Services Agency (SSA)	+0.3
Gibraltar Sports and Leisure Authority (GSLA)	+0.4
Social Assistance Fund (SAF)	-0.1
	<u>12.2</u>
Less Exceptional expenditure funded from Reserve	-0.2
	<u><u>12.0</u></u>

Mr Speaker, even though overall expenditure grew by 5.4 per cent, expenditure on social care services grew by more than that, in keeping with Government's stated policy of ploughing back parts of the fruits of our economic success into improved and expanded public services. Recurrent expenditure on our health service increased to £55.4 million, by £4.9 million which represents a 10 per cent increase. Social Services Agency expenditure increased by £300,000 to £4.1 million or 8 per cent, and Elderly Care Agency expenditure by £0.5 million to £6.2 million or 9 per cent. I will be announcing later in this address further expenditure increases in these caring services. Mr Speaker, the Government is proud not just of the success of the economy and of its own finances, but also about how the fruits of that success have been spread throughout the community. So, during the last ten years, annual spending on our health service has increased by 139 per cent, on education by 69 per cent, on social services by 111 per cent, on the environment by 53 per cent and on sport by 260 per cent in the space of ten

years. These are incontrovertible indicators of the Government's profound and persistent commitment to improving and expanding those public services that are most important to every person and to every family in Gibraltar.

Mr Speaker, for the current year to March 2008, the Government is estimating an overall surplus of £16.3 million compared to the £24.8 million we achieved last year. The Consolidated Fund estimated surplus of £15.8 million reconciles with the overall estimated surplus of £16.3 million after account is taken of the net surplus of £0.5 million from the Non-Consolidated Fund Reserve Balances. Mr Speaker, let me hasten to add that this year we are paying out of the Consolidated Fund budget the sum of £10 million to pay the 65.2 per cent increase in old age pension that we introduced with effect from 1 April 2007. This is reflected in the estimated surplus for the current year. However, this year's budget measures have a substantial net cost to the budget, which are not reflected in this budget. When these things are netted against estimated increases in revenue from other sources, such as higher employment, gambling fees et cetera, the Government estimates that it will remain in surplus this current year by about £7 million. Mr Speaker, we are estimating Consolidated Fund revenue increases of £11.3 million or around 5.3 per cent for this year from £212.1 million to £223.4 million. Consolidated Fund departmental expenditure is estimated to increase by £9.9 million or 6.3 per cent from £157.7 million to £167.6 million and Consolidated Fund charges by a small amount of around £650,000. In addition, the Consolidated Fund will also contribute the £10 million, to which I have just referred, to the Social Insurance Fund for the purpose of the 65.2 per cent pensions increase, thereby increasing estimated total Consolidated Fund expenditure for this year to £207.5 million, compared to £187 million last year. Overall expenditure for 2007/2008 is estimated at around £257.1 million. This represents an increase over last year of £21.2 million, or 8.9 per cent. Without the £10 million for the pensions, the increase in overall expenditure for the current year would be £11.2 million, or 4.7 per cent. Overall revenue is being estimated at £273.4

million, compared to last year's £260.7 million, an increase of £13 million, or 5 per cent. This produces the overall estimated surplus of £16.3 million for 2007/2008.

Mr Speaker, another of the ways in which Government distributes the benefit of our economic success, is through our capital investment programme. In last year's Budget address, I gave the House a list of the major projects comprising this huge programme. I am pleased to be able to report that in most of the projects there has been significant progress during the last year. Indeed, last year we spent a record £28 million through the Improvement and Development Fund and around £18 million through the Government companies, in connection with this capital investment programme. This year, we are estimating to spend in excess of £40 million through the Improvement and Development Fund. In the area of housing, very significant progress has been made in the construction of the Waterport Terraces Estate, including the 140 houses for the elderly, in repairs to Brympton Estate and in the refurbishment of Government housing estates. The reclamation works for the new Government rental estate at Mid Harbour is advanced and construction will proceed this year. Also under way, is the redevelopment of three old properties in the Upper Town by Government for sale as affordable housing. We have also made good progress in our new roads and street beautification programme. Engineer Lane has been completed. The new road through Chatham Counterguard is now in use. The beautification of Orange Bastion, Chatham Counterguard, Fish Market Road and Plaza del Reloj are complete in respect of some of the earliest phases and/or at a very advanced stage in respect of the latter phases. This has resulted in a wonderful recovery of our heritage and in a transformation of a whole area of Gibraltar. The replacement of pavements and balustrades along Europa Road continues. The new Upper Town relief road is very advanced. In our parking programme, works are at an advanced stage on the building of car parks at Willis' Road, Sandpits and New Harbour's Deck. The Cemetery path replacement is complete, as is the replacement of the Frontier fence. In the area of sports and leisure, the new swimming pool

for the elderly has been duly completed, as has the magnificent Bayside Sports Complex. The King's Bastion Leisure Centre is now also almost complete. Apart from providing Gibraltar with a magnificent Leisure Centre, it has also wonderfully recovered and restored one of our most important heritage assets. Other projects under way include the beautification of Camp Bay and Little Bay, the Retrenchment Block refurbishment for clubs and associations, the new prison and a women's hostel. Mr Speaker, our capital investment programme, and the investment that it represents in our urban fabric and environment, heritage and public amenities, is one of the purposes to which we have put the fruits of our economic success during the last ten years. This has transformed Gibraltar, and will continue to do so. The Government will continue to invest in the Gibraltar of the present and of the future. So, as some projects are completed, others replace them. The new rental housing estate; a new air terminal; a new dual carriage road leading to North Front; a tunnel under the runway; multi-storey car parking in Devil's Tower Road; the refurbishment of the public market; the beautification of Europa Point, the details of which will be announced very shortly; the large scale project to safely re-open Dudley Ward Tunnel; further street refurbishment projects; the conversion of the old John Mackintosh Wing into a second old people's home and the remainder of the old St Bernard's Hospital historical buildings into a new First and Middle School for the Upper Town area. All these projects get under way soon as part of the next generation pipeline. On the environment front too, projects in the pipeline will address some of our longstanding environmental concerns. A new refuse incinerator, and an urban waste water treatment plant. But perhaps of most significance to thousands of people who live nearby existing power stations, a new, modern, environmentally friendly power station in a non-residential area to replace altogether the Waterport Power Station, the MoD Power Station and the OESCO Power Station. An end to the noise and to the pollution in the area of people's homes. Construction begins next year, and the new power station is expected to be ready in two years. Mr Speaker, one area that has benefited hugely from this Government's investment and modernisation programme is our health service.

In reality practically the whole of our health infrastructure has been replaced in ten years. We have already delivered a new professional ambulance service; a new health centre; a new, very well equipped hospital; new standards of health care; new and additional health services; a wonderful improved and expanded Mount Alvernia. These positive improvements will continue. I have already mentioned the second old people's home in the old John Mackintosh Wing. But our investment and modernisation programme will not be complete until we implement the last piece of the jigsaw, the already announced replacement of KGV mental health hospital with a new mental health hospital. A project which gets under way this financial year.

Mr Speaker, while not every sector of the economy is in the same boat, overall the economy in the private sector, insofar as concerns the private sector, has continued to grow handsomely, to develop the quality and sustainability of its business and to grapple well with external and market challenges. As always, our business and professional fraternity, aided by supportive Government policies and measures, have shown the business acumen for which Gibraltar is well known.

I wish to congratulate the Chamber of Commerce for its comprehensive, objective and penetrating assessment of the economy and the needs of business. The Government accepts both the plaudits and the criticisms contained in it. In respect of the latter, and also in respect of the Chamber's agenda of issues, I commit the Government to working with the Board to address and resolve as many of these as the Government reasonably can.

Mr Speaker, the economy grew in 2004/2005 by 7 per cent to a GDP of £599.18 million. Based on the statistics in the 2006 Surveys, the Government statisticians estimate that it has grown by about 8.5 per cent in 2005/2006 and by 10.8 per cent in 2006/2007 and that GDP is probably now around £730 million, much more than twice its £327 million size in 1996. This is the scale of Gibraltar's economic success in the last ten years,

making Gibraltar one of the most economically successful and affluent communities in the entire world.

Inflation in Gibraltar was running at 2.6 per cent in 2006. The inflation rate, which is largely outside the Government's control, is likely to continue within the 2 per cent to 3 per cent range throughout 2007.

Mr Speaker, last year I said in respect of employment that in 2005 the number of jobs in the economy rose by a huge 880 jobs. In 2006 there was a veritable explosive rise in the number of jobs in our economy, from 16,874 to 18,485. That is, 1,600 jobs or 9.5 per cent growth in job numbers. This is an indicator of the remarkable performance of our economy, even allowing for the fact that some of that increase will reflect wider coverage in respect of the October 2006 Employment survey. There are now 5,500 more jobs in the economy than there were in 1996, an increase in the last ten years of 42 per cent. The overwhelming majority of the 1,600 new jobs created in 2006 have been in the private sector, around 400 of them in the gambling industry; 232 were weekly paid, full time jobs; 1,064 were monthly paid, full time jobs. There are thus now 15,480 full time jobs in the economy, an increase in the year of 1,296. Mr Speaker, employment in respect of Gibraltarians increased significantly by 476 or 4.8 per cent.

Average annual earnings in respect of all employees rose in 2006 by 5.6 per cent to £12,470. Average earnings by full time weekly paid employees rose by around 8 per cent to 10 per cent to £347 per week for males, and £234 per week for females. Mr Speaker, another measure of how individual citizens have benefited from the economic success is that a combination of higher pay and lower taxes have resulted in average take-home pay having risen since 1996 by 64 per cent, while inflation was only 22 per cent. Figures also show that the percentage of Gibraltarians that are economically active continues to rise, and now stands at 63 per cent. As I said last year, these figures amount to 97 per cent activity in the Gibraltarian economically active population, effectively full employment.

Mr Speaker, the buoyancy of the economy does not prevent or disincentivise the Government from monitoring each of its sectors and from working with sector operators and representatives to address its needs and further enhance its prospects.

Tourism has continued to perform well. The number of visitors in 2006 increased by 5 per cent to a record 8.2 million, spending an estimated £210 million. Cruise passengers rose by 12 per cent to a record 211,000 in 202 ship calls, compared to 171 in 2005. Employment in tourism related activities such as hotels, restaurants and transport continues to rise, by 114 jobs in 2006. Visitors to the upper rock increased by 7 per cent to 724,000. The Port continued to perform strongly, delivering 3.9 million tonnes of fuel and receiving nearly 9,000 ship visits, including 202 cruise ships. Yacht visits were 3,112 despite disruptive development works affecting the marinas. The ship registry continues to grow as a quality tonnage register, as befits its Category 1 status.

The on-line gambling industry continued to perform strongly in 2006, and has continued to do so in 2007 despite the well publicised difficulties in the United States and other markets. In 2006, employment grew by 398 jobs, or 26 per cent to 1,893 jobs. As at 31st May 2007, employment stood at 1,689, a drop of only 204, notwithstanding the turmoil caused in the United States, and following which employment levels still remain above the 2005 levels. Many of the companies affected have indeed started to recruit more staff again. This, together with new licences will continue to grow the sector and employment levels in it. Gaming tax revenue by the Government has increased to £7.3 million from £6.6 million last year and £1.8 million in 2002.

It is not possible to exaggerate praise for the Finance Centre given the robustness and resilience with which it has operated and indeed grown during some of the toughest times and circumstances that it has faced. Bank assets and liabilities stand at around £8 billion. Total number of licensees in the Finance Centre rose from 208 in 2005, to 214 in 2006 and 232 in 2007,

with the strongest growth being in insurance companies and investment firms. Employment in the Finance Centre rose in 2006 by 332 or 14 per cent to 2,652, and the sector now accounts for 14.3 per cent of all jobs in the economy. The number of jobs in the Finance Centre has grown by 1,056 or 66 per cent since 1996.

Mr Speaker, even though areas of the retail and wholesale trade continue to experience tough trading conditions, mainly as a result of superstore competition and competition from retailers in Spain, the general level of trade as reflected in the value of imports, excluding fuel, rose by £63 million or 21 per cent in 2006. The Government fully supports the view expressed by the Chamber of Commerce in its 2006 Report that retailers must remain agile and willing to vary the retail product offered to meet changing demands and opportunities. For its part, the Government will continue to work with the Chamber to address as many as possible of that sector's needs. The retail and wholesale trade will of course be beneficiaries of the lowering of corporate income tax during the next three years.

Finally, in relation to trade generally, Mr Speaker, it is to be expected that the Cordoba Agreements relating to the airport, telecommunications and frontier fluidity will each prove positive to, and boost trade for the future. The Government welcomes the efforts of trade to exploit the commercial opportunities offered by improving formal relations with Spain.

Mr Speaker, and so to the Government's budget measures for this year. I have already commented that every Gibraltarian and citizen has a stake in Gibraltar's economic development and economic success because ultimately it enables the Government to redistribute wealth to everyone and funds and pays for the financial and social improvements that Government can deliver to all citizens.

I have already said that, of the Government's budget surplus, £10 million is being spent in funding the 65.2 per cent increase in old age pensions introduced in April this year.

Sponsored Patients Scheme

The sponsored patients scheme is no longer working well financially for patients. Too many patients and their families are having to undergo financial strain in order to fund their visits to UK as sponsored patients. Furthermore, the means testing system is complicated and not always fair. The Government will therefore carry out a full review of the system with a view to its overhaul and reform to remedy these shortcomings. However, as an immediate and interim step I am today announcing two measures that will come into effect straight away: -

1. The concept of "household income" will be eliminated from the means testing formula. Only the combined income of the patient and spouse/partner will be taken into account. In respect of the escort, if not the spouse of the patient, the only relevant income will be that of the escort and his/her spouse;
2. The Government will increase the accommodation and maintenance payments budget by £280,000 a year or 87 per cent. The means testing allowances will be increased by 100 per cent, that is, doubled. The full rate of payment for accommodation and maintenance to sponsored patients and the escorts, which presently stands at a maximum of £266 per week, will increase by 50 per cent to £400 per week and the corresponding Calpe House allowance from £98 per week to £147 per week and the in patient allowance from £35 per week to £52 per week.

These are interim measures pending more deep rooted and extensive reforms of the system following the review.

Further Healthcare Development

Building on the improvements to health care facilities and services that have already taken place, the Government is

providing additional funding of £1.25 million per annum to the GHA to enable it to:-

1. Introduce an electronic, paperless health record system in all patient care and support systems including patient records, appointments and treatment scheduling, prescribing, clinical risk management, transmission of clinical information and test results as well as financial control throughout the GHA, my colleague, the Minister for Health I am sure will be giving further details of what this means in his own address;
2. Deliver as much chemotherapy in Gibraltar as is clinically possible and deliver cancer follow up checks in Gibraltar carried out by arrangement with the UK hospital's personnel;
3. Introduce a breast screening programme for all women over the age of 40 on a regular scheduled basis;
4. Establish a diabetes clinic comprising specialist doctors, nurses and support staff to care for children and adults with diabetes;
5. Introduce a targeted chiropody and optometry service.

Road Tax

Road Tax is environmentally regressive in the sense that everyone pays the same, regardless of the extent of usage of their motorcar. Road Tax is therefore abolished on all vehicles. The lost revenue will be recovered by the following revenue raising measures:-

1. Increase in motor fuel duty. Duty on petrol will be increased by 4 pence per litre from 14p to 18p;

2. Imposition of duty on fuel sold to yachts. The current duty exemption on fuel and oil taken on board in Gibraltar by ships for the purposes of travelling outside Gibraltar will be abolished in respect of sales to vessels of less than 250 gross registered tonnes in vessel displacement;
3. Duty on cigarettes will be increased by 5 pence per packet of 20 or 50 pence per carton of 200. The last time I increased tobacco duty it encouraged the Leader of the Opposition to give up smoking, and I am hoping it will have the same effect this time for the benefit of his health.

Passport Issue and Renewal Fees

Passport issue and renewal fees are abolished in the case of persons aged 65 or over.

Child Welfare Grant

In respect of the Child Welfare Grant, the earnings limit was last increased in July 2005 from £30,000 to £35,000. It is payable at the standard rate of £30 per month. The earnings limit is increased to £45,000 and the standard rate of the grant is increased to £40 per month, both with effect from 1 October 2007.

Disability Allowance

Disability Allowance is increased with effect from 1 July from £31 per week for a child or young person to £50 per week, and from £43 per week for a person aged 18 or over to £70 per week. These represent increases of 62 per cent.

Unemployment Benefit

The current rate of Unemployment Benefit is £51.75 per week and has not been increased since July 2004. Unemployment Benefit is therefore increased by 10 per cent to £57 per week. The related children's allowance is also increased by 30 per cent from £10.05 per week to £13 per week. The spouse allowance is increased by 10 per cent from £25.45 to £28 per week.

Maternity Allowance and Employment Injuries Insurance

Maternity Allowances and Employment Injuries Benefits, which have not increased for a number of years, will rise with effect from 1 September 2007 by 16 per cent.

Married Women Reduced Rate Contributors

Married women who have paid or are paying reduced social insurance contributions or who have not paid contributions as self-employed persons having formally opted out from doing so pursuant to the applicable regulations, are currently not entitled to an old age pension in their own right when they reach the age of 60 which is the pensionable age for women. They can only claim an old age pension, at the dependant's allowance rate, based on their husband's insurance record once the husband reaches the age of 65 which is the pensionable age for men. The dependant's allowance is paid at half the rate payable to the husband. With effect from 1 July 2007, these women will be given the opportunity to make retrospective payment of the difference between the married woman contributions and the full social insurance contribution. Provided that the minimum contribution requirements are met, this will entitle them to the applicable pension in their own right when they reach the age of 60. Pension benefits resulting from this measure will only be payable after 30 June 2007.

Old Age Pension for Divorced Persons

At present when a couple divorce, one of the parties, usually the woman loses the right to claim an old age pension based on their former spouse's social insurance contribution record. For example, a divorced woman who has never worked or who has paid the reduced rate of contribution, is not entitled to an old age pension in her own right when she reaches the age of 60, and neither is she entitled to the dependant's allowance based on her former spouse's contribution record, if she and her husband should divorce. With effect from 1 July 2007, divorced persons within the category that I have just described, will be able to claim the applicable old age pension based on the contributions paid by their former spouse during the period of their marriage, provided that the contributions paid during this period satisfy the minimum contribution conditions for an old age pension. Subject to satisfying the relevant contribution conditions, an old age pension will be paid on a pro-rata basis based on the current dependant rate. For divorced persons who have paid the full contributions for a number of years, but who are still not entitled to an old age pension because, for example, they have not met the minimum contribution conditions or are only entitled to a reduced old age pension in their own right, allowance will be made, where applicable, to aggregate their own contributions to those paid by their former spouse during the period of marriage to enhance their pension by the aggregate of both those sources. This arrangement in relation to the new pension rights of divorced women will also entitle such women to Community Care payments to which they presently lose entitlement if they lose entitlement to a pension by virtue of a divorce.

Minimum Income Guarantee and Rent Relief

Minimum Income Guarantee and Rent Relief are two social support mechanisms the levels of which depend on the recipient's level of income from other sources. Accordingly, any increase in the level of, for example, old age pensions

payments, will reduce the amount received in respect of Minimum Income Guarantee and Rent Relief. As a result of this, when the Government raised local old age pensions by 65.2 per cent with effect from 1 April 2007, many old age pensioners suffered a loss of, or a drastic reduction in, Minimum Income Guarantee and Rent Relief, thereby neutralising, in whole or in part, the financial benefit of the old age pension increase that they receive. This had not been the intention. This will be rectified, with retrospective effect to 1 April 2007. In the case of Minimum Income Guarantee this will be done by disregarding the 65.2 per cent pension increase for the purpose of the Minimum Income Guarantee entitlement. This means that all elderly people in receipt of Minimum Income Guarantee will enjoy the full financial effect of the 65.2 per cent increase in pensions without the loss of Minimum Income Guarantee payments. This of course will also apply to the benefit of those people that have fallen out of the Minimum Income Guarantee altogether as a result of that increase in pension. Recipients of Minimum Income Guarantee who are not in receipt of an old age pension and who have therefore not benefited from a 65.2 per cent increase in pension payments, will receive a supplement to their Minimum Income Guarantee payments also with effect from 1 April 2007 at the rate of £34.80 per month for a married couple and £26.10 per month for a single person. In the case of Rent Relief, the formula will be changed with effect from 1 April 2007, so that any increases to Old Age Pension, Widow's Benefit, Minimum Income Guarantee and Social Assistance payments will be disregarded for the purposes of assessing Rent Relief entitlement. The Housing Department will make the necessary retrospective adjustments and refunds in respect of Rent Relief and the Department of Social Security will issue cheques for the arrears of Minimum Income Guarantee backdated to 1st April.

Civil Service Occupational Pensioners with Breaks in Service

In days gone by Civil Servants who gave up work for a while or wished to become part-timers, usually women in order to raise a family, were obliged to resign. Many resigned as full timers on a Friday, only to be re-engaged as part timers the next Monday. The resulting break in service resulted in the earlier period of service not being counted towards their pensionable service when it came to calculating their pension entitlement. Many of the affected persons, as I have said, were women who wished to stop or reduce work temporarily in order to raise a young family. Accordingly, with effect from 1 July 2007 all current Civil Service officers or ex Civil Service officers who qualify for a pension in the future or who are already in receipt of a pension on retirement under the existing Pension Regulations, that is retirement having served the minimum prescribed continuous service of ten years, will have all previous periods of employment as Civil Servants recognised for the purposes of pension entitlement. This will apply to pensions payable under the Pensions (Widows and Orphans) Act to widows and orphans. Account will be taken of the gratuity that has already been paid for prior periods of service together with interest thereon in arriving at the revised pension. In the case of persons who are already in receipt of a pension, the full amount of the revised, increased pension will be payable as a pension and no part of the increase will be payable as a lump sum gratuity.

Income Tax

Mr Speaker, Governments that do not systematically and continuously cut taxation but do so as elections approach can be accused of electioneering. We, on the other hand, cannot be accused of this because we have cut taxes each and every year that we have been in office since 1996. This Government has massively reduced the rate of personal taxation on individuals over the last ten years. We have increased allowances, restructured tax bands, introduced new allowances, reduced the

top rate of income tax from 50 per cent to 42 per cent, eliminated tax on occupational pension income, eliminated tax on investment income, exempted most people of pensionable age from tax altogether, introduced special tax breaks for the low paid, amongst other measures. The effect has been to reduce effective rates of tax by up to 55 per cent, depending on the taxpayer's circumstances. The Government has reduced taxation in this very significant way as one of the means by which it shares out and redistributes the wealth created by Gibraltar's economic success, and this is another manifestation of how everyone has a personal stake in that success. So this year, following the record performance of the economy, we are, once again, sharing out the fruits of that continuing economic success by continuing with our annual tax cutting agenda, as follows:-

The top rate of tax is reduced a further 2 per cent from 42 per cent to 40 per cent. This benefits 7,000 taxpayers who will see a reduction of £2 per £100 of their taxable income above £16,000. The reduction in the top rate will thus have been reduced from 50 per cent to 40 per cent over the last ten years;

The standard rate of tax band on which tax is paid at 30 per cent will be widened by £3,000 from the present £4,000 to £13,000 to £4,000 to £16,000. This measure will also benefit 7,000 local taxpayers, who will see the tax rate on the first £3,000 of taxable income after £13,000 reduced by 12 per cent from 42 per cent to 30 per cent or put another way, by £120 per £1,000.

So to tax cuts for the lower paid. This Government is proud to have pioneered special tax cuts targeted specifically at the low paid through the introduction of the Low Income Earners Tax Credit. At present this reduces the tax bill of everyone who earns less than £8,000 per annum by £275. However, as this tax credit is not delivered through the PAYE code system, eligible

taxpayers have to wait until they are assessed after the end of the tax year to receive a refund of the tax credit. This system will now be changed so that eligible taxpayers will receive the benefit of the tax credit throughout the year through the PAYE tax code. In addition, the amount of the tax reduction for people earning less than £8,000 per annum is being increased by £320 per annum from the previous £275 per annum to £595 per annum. This is a reduction in the amount of tax that they pay - £595 per annum. This will be delivered by awarding such persons an additional tax allowance of £3,120 per annum. This benefit is limited to the tax actually paid. One will not be entitled to a refund of tax that has not been actually paid. Mr Speaker, the effect of this measure is that no tax will be payable by anyone with income below £7,000 per annum.

Further, the principle of tax cuts targeted to the lower paid, currently limited to people who earn less than £8,000, will now be extended to people who earn up to £19,500 per annum as follows:-

People who earn between £8,000 and £17,500 per annum will receive an extra tax allowance of £1,000 worth up to £300 per annum in tax reduction;

People who earn between £17,500 and £18,500 per annum will receive an extra tax allowance of £670 worth up to £201 per annum in tax reduction. Coupled with the widening of the standard rate tax band which I announced a moment ago, these people will therefore also receive at least £300 of tax reduction;

People who earn between £18,500 and £19,500 will receive an extra tax allowance of £350 worth up to £105 per annum in tax reduction. Coupled with the widening of the standard rate tax band

which I announced a moment ago, these people will also receive at least £300 of tax reduction.

These benefits will be delivered throughout the year via the PAYE tax codes. If by virtue of their other tax allowances people who earn between £8,000 and £19,500 per annum do not get, through the PAYE system at least £300 tax reduction by means of these increased allowances and the widening of the standard rate tax band, the balance up to £300 will be paid as a tax credit at assessment time. A total of 13,300 taxpayers will benefit from these measures to target tax cuts exclusively to the lower paid.

The Dual Taxation System. Mr Speaker, our tax system has very high headline rates of taxation, but these are reduced to lower effective rates by a generous system of tax allowances, the main ones of which are mortgage interest relief unlimited, life insurance premium relief up to one sixth of income, child allowances et cetera. This is all very well, but taxpayers who cannot benefit from these allowances because they are single, or have no mortgage, no children or no life insurance are left to pay the very high headline rates. This is harsh on affected local residents, as well as being a disincentive for location in Gibraltar for companies that need to recruit specialist skills from abroad. Last year I flagged up the Government's intention to remedy this. I am now pleased to announce the details of this scheme.

With effect from 1 July 2007, every taxpayer will be able to choose for each tax year to pay tax between two systems, and to choose the one that results in the lower tax payment. Either system can be selected through the PAYE tax code system.

The two systems are:-

1. The existing Allowance Based system, with existing tax rates, as reduced by the measures that I have just announced; or
2. A new Gross Income Based system, in which the taxpayer will receive no allowances, but will pay tax on gross income at the following rates:

20 per cent on the first £25,000
30 per cent on the next £75,000
40 per cent above £100,000

This new Gross Income Based alternative will very significantly reduce the tax payments of around 6,500 local taxpayers, in whose favour the tax system will be rebalanced to substantially redress the balance of taxation between those who enjoy certain very generous allowances and those who due to their personal circumstances do not.

Mr Speaker, the effect of this new Gross Income Based alternative is that:-

1. No taxpayer with income below £25,000 per annum will pay more than 20 per cent income tax (20 p in the pound);
2. No taxpayer with income below £50,000 will pay more than 25 per cent income tax (25p in the pound);
3. No taxpayer with income below £100,000 will pay more than 27.5 per cent income tax (27.5p in the pound);

4. No taxpayer with income below £125,000 per annum will pay more than 30 per cent income tax (30p in the pound).

Access to the Gross Income Based alternative will be subject to rules to prevent married couples and others living together from benefiting from both alternative systems by each choosing a different system in manner that a taxpayer who opts for the Gross Income Based system, directly or indirectly benefits through his spouse or her spouse or other family member from any tax allowances which he has chosen to give up in making this election. For example only, a property will cease to be eligible for mortgage interest relief or home purchase allowance by any taxpayer if someone who opts for the Gross Income Based alternative lives in it.

HNWI and Category 2 status will continue except that with effect from 1 July 2007 the minimum tax payable is increased from £14,000 per annum to £18,000 per annum and the taxable income level is increased from £50,000 to £60,000. Secondly, the existing Category 3 status is abolished for new entrants. Existing Category 3 holders will be able to retain that status until expiry of their current certificate or for two years until 30 June 2009, whichever is the longer. However, the amount of tax payable rises with effect from 1 July 2007 from £10,000 to £15,000 per annum.

A new category called "High Executive Possessing Specialist Skills"(HEPSS) will be established for existing Category 3 holders who earn more the £100,000 per annum; and for new applicants who possess skills not available in Gibraltar and, in the Government's opinion, necessary to promote and sustain economic activity of particular economic value to Gibraltar, who will occupy a high executive or senior management position, and who will earn more than £100,000 per annum of income in Gibraltar. Tax will be payable by them on the first £100,000 of their income and it will be payable under the normal taxation system in Gibraltar, the new dual choice tax system, as opposed to the flat £10,000 per year that they have been paying

until now. New applicants must not have been resident in Gibraltar for any part of the period of three years immediately before proceeding the application, and the property requirement will remain as per the existing Category 3.

Category 4 status is abolished for new entrants with effect from 1 July 2007. Existing holders may retain the status until the end of the current certificate or 30 June 2009, whichever is the longer. However, minimum tax payable will increase with effect from 1 July 2007 from £5,000 per annum to £7,500 per annum.

These changes to the Category 3 system and the abolition of the Category 4 system, eliminates once and for all the dual tax system that exists in Gibraltar at a personal level, between certain people operating the Finance Centre and the gambling industry and the rest of the community.

Lastly, but by no means least to Community Officers. Tax is abolished on income from the Community Officers Allowance paid by Community Care Limited to about 400 officers aged between 60 and 65 years involved in community work.

Mr Speaker, reflecting as it does a Budget, as have all the Government's budget for a successful economy that allows the Government to spend money on capital improvements; to spend money on improved and expanded public services; and to very substantially cut levels of personal taxation in Gibraltar, I have no hesitation in commending this Bill to the House.

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

HON J J BOSSANO:

Mr Speaker, as I mentioned last year, my colleague the Hon Fabian Picardo will be speaking on health and the Hon Stephen Linares on sports as regrettably the Hon Miss Marie Montegriffo is not yet well enough to participate in the Budget this year.

In addressing the House on this year's Estimates of Revenue and Expenditure, I will also deal with the previous years and in particular with the statements made by the Chief Minister last year when I was not in a position to deal with the details of the figures that he quoted without the benefit of the written record and the opportunity of checking the accuracy of those figures that he quoted. Something which, as I have demonstrated over the years, is necessary since the Chief Minister often quotes figures which do not support his arguments and indeed makes one wonder whether in many instances he has a clue as to what he is talking about.

Last year I went back to the results for 2003/2004. The Chief Minister took objection to my doing this, even though I had pointed out that the Parliament had only then had the benefit of the 2003/2004 financial year final audited accounts, which had been made available for the first time prior to the 2006 Budget. Therefore, in my view, it was quite appropriate to consider whether the analysis that had been made by the Opposition two years previously, in that Budget, was supported in the light of the figures contained in the accounts finally available in 2006. Now we have the 2004/2005 final audited accounts, and, in addition, the 2005/2006 audited accounts, which have arrived sooner than was the case previously because, under the new Constitution, the Principal Auditor sends his accounts and report directly to this Parliament without first submitting them to the Governor, as was the requirement under the previous Constitution. I would like to take the opportunity to congratulate the Principal Auditor both on providing the 2005/2006 audited accounts so expeditiously to this Parliament and also on the contents of his report. The Principal Auditor completed his work this year by April and it makes the audited results much more relevant to have the details for the 2006 financial year when we are debating the 2007 Budget than to have a two year time lag, as has been the case until now.

Another effect of the new Constitution is the change introduced in the provision which requires the approval of Parliament for the appropriation and use of public funds. My understanding of

the change, which was agreed at an early stage in the discussions of the Select Committee, was that it would entail the appropriation process that had been in existence for public expenditure from the Consolidated Fund being extended to all other public funds. I note, however, that the form of the Appropriation Bill and the Estimates before Parliament are no different from previous years under the 1969 Constitution. In other words, the approval by Parliament is limited to the subvention that is being provided, for example, to the Electricity Authority, but not to the expenditure by the Authority itself which is spelt out in Appendix D. This information shows the estimated expenditure for the current financial year which is £24,238,000 but the amount to be approved in the Bill we are debating is the contribution from Head 4C of the Consolidated Fund which is £4,023,000 which covers the operating deficit, which is the same procedure adopted for 2006/2007 under the 1969 Constitution. The provision in that the Constitution used to say, in Section 65(2), that the heads of expenditure contained in the Estimates for a financial year had to be included in a Bill to be known as an Appropriation Bill introduced into the House of Assembly to provide for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified in the Bill. The equivalent provision now is Section 69(2) which reads "the heads of expenditure contained in the estimates for a financial year shall be included in a Bill to be known as an Appropriation Bill introduced into the Parliament to provide for the issue from the Consolidated Fund and other public funds of Gibraltar". The words "and other public funds of Gibraltar" have been inserted after "Consolidated Fund" and would appear to cover both the sums necessary to meet the expenditure of the Consolidated Fund, and the sums necessary to meet the expenditure of other public funds of Gibraltar. Consequently the appropriation of the sums specified both from the Consolidated Fund and those other public funds. Since this is not what we are doing in this Appropriation Bill, Mr Speaker, I would like to have some clarification as to what indeed it is that the new Constitution requires us to do at Budget time, which was not

required already under the previous Constitution which covered last year's Appropriation Bill before the House of Assembly.

Since we have not changed, as far as I can see in any way, the procedure for appropriating expenditure from the Consolidated Fund in this Bill, I will now proceed to deal with the general principles of the Bill on the basis that the new provisions in the Constitution change nothing in this respect, namely that we are just discussing the expenditure from the Consolidated Fund.

In the debate on the Budget of 2004 when there was a deficit of £1.48 million in respect of the expenditure charged to the Consolidated Fund alone, it has been argued that uncovered deficits in other public funds were not the subject of the debate on the Appropriation Bill. It was said that Parliament was voting the appropriation of sums in the expenditure heads of the departmental budgets. It was also said that there was nothing to prevent, at least in theory, a statutory authority or agency from exceeding its estimated expenditure and running a deficit which Parliament was not obliged to cover by increasing the subvention. In that year, the Government's position was that the departmental expenditure estimates approved at Budget time were not just estimates to be ignored and that it was a matter of budgetary discipline which Parliament should agree with the Government, had to be adhered to as far as possible. The Government therefore announced that action was being taken to ensure that approved estimates of expenditure for departmental budgets were not to be exceeded. In fact, there was mention of monthly reports. Revenue raising measures were brought in in 2004 and 2005, and a blitz on arrears' collections to increase the revenue yield was announced.

Well, Mr Speaker, it seems to me that it is perfectly reasonable for this Parliament to examine what takes place after the 2004 Budget in the light of the deployment of these three policies and consider the results that followed. So when we are told in 2004 that keeping to the approved appropriation in the sums shown in the Estimates of Revenue and Expenditure is the objective, and one which we should welcome as wholesome budgetary

discipline, we naturally look to the forecast outturn and the final figures to see whether the expectation of the Government has been fulfilled or not. What then is the result of us questioning the gap between the estimates and the eventual results as we did last year? The Chief Minister attacks us for doing this. We get told that estimates are just that, estimates and nothing else. Examining the performance of the Government is not, after all, about whether they stick to the approved budgetary estimates at all. Such an exercise, in any case, would only indicate how good they are at estimating and not it seems how good they are at disciplinary budgetary controls after all. The new set of instructions from the Chief Minister is that what we should be doing instead is comparing the final outcome when we come here to look, 18 months after the event in respect of one year and compare it with the following year, which is when the final audited accounts give us the final results. Well, we all know what a control freak the Chief Minister is and how he likes to tell everyone what they should do or not do, but I think at the very least, he should accept that how the Members of this Parliament choose to analyse the public accounts, the Estimates of Revenue and Expenditure and the results achieved is a matter that does not require his permission or approval.

Let me say that both exercises, in my view, need to be done but for different reasons. We believe in looking at what is happening to the estimate in terms of the final results because, based on what was said in 2004, the Estimates of Expenditure is what this Parliament approves on the premise that it is what the Government is in effect telling us, in its judgment, is required and what it expects will happen during the course of the financial year and the basis upon which it will be financed on the revenue it expects to obtain. If the Estimates of Revenue and Expenditure were not what is expected to happen during the succeeding 12 months, then much of the debate on the Appropriation Bill would make little sense. The other component of the reaction of the Government announced then was the decision to make a greater effort to collect arrears. The blitz, which the Chief Minister dislikes me using because he thinks I am criticising him, when all I am doing is quoting him,

without passing judgment. That shows that the 2004 shortfall in revenue was accompanied by an increase in arrears and that the subsequent increases in revenue yields since, have been accompanied by a reduction of arrears. This is the second element in the higher surplus, we have seen in the last three years. Again, last year, this analysis appeared to annoy the Chief Minister. I cannot see why it should. Obviously, in looking at the revenue collected in a given year one needs to take note of how much of it represents a reduction of arrears which involves income due in previous years. The obvious consequence of a reduction in arrears is that this is an element of the Government receipts that is finite, when the arrears come down to a level considered by the Government to be acceptable. The third element in the increase in revenue is of course increases introduced in fees and charges for Government services post 2004. None of these three elements which affect the balance between income and expenditure is dependent on the level of economic activity. However, one would expect the Gibraltar economy to grow every year and consequently the revenues of the Government to grow as well. This is why last year, when we had the GDP for 2003/2004 for the first time, I expressed surprise that the year when there had been a revenue shortfall should be that very year when the economy grew faster, at over 10 per cent, than in previous years. Having said it was difficult to understand why this should have been the case, I explained the reason why I was considering growth in Government revenue and expenditure in that light, because our approach has always been to look on the year to year growth and evaluate it in the context of how the economy is performing. The observation which I make, which if anything addresses the argument of the Chief Minister that one cannot say the Government's sector is too big or too small without saying in comparison to what, appeared to infuriate him. He then exercised the right of reply by misquoting what I had said and then producing a string of percentages of GDP over a number of years for Government revenue and expenditure. Having done so, he triumphantly turned on me and accused me of being either an incompetent economist or alternatively having made a statement intended to distort and mislead my audience.

Mr Speaker, the only statement I had made was that it was difficult to understand why in 2004 the economy grew faster, that is, 10.4 per cent, and yet Government recurrent revenue grew slower than in other years. I can only put his reaction down to the endemic paranoia that the Chief Minister suffers from, which must have led him to deduce that I was accusing him of not being infallible when in fact I was not blaming him for anything at all.

What he did succeed in doing by his reaction was of course confirm what I had said about 2003/2004, but not explain it. The fact that he thought he was proving me wrong when he was doing the very opposite shows the trouble he gets himself into when he tries to deal with issues he does not understand. The figures he quoted were that Government revenue was 37 per cent of GDP in 2002/2003. In 2003/2004 Government revenue did not grow as fast as GDP and therefore the share of revenue in GDP fell to 35 per cent. This 2 per cent drop may seem small but it was 2 per cent of £556 million, hence a cash difference of £11 million. On the expenditure side, he said Government spending had been the equivalent of 35 per cent of GDP in 2002/2003 and had risen to 36 per cent of GDP in 2003/2004. This is what happened in 2003/2004, Government revenue grew slower than GDP and Government spending grew faster than revenue and there was a deficit. This is what I said had happened and what he confirmed when he thought he was proving me wrong. Let me say that I do not think he was trying to mislead his audience or anyone else, he was simply trying to attack me because that is the way he is and he cannot help it. Although we have been monitoring what has been happening since 2004 and although the Chief Minister criticised me last year for going back to 2004 and will no doubt do the same this year, that did not stop him going back to 1998/1999 to analyse Government revenue and expenditure. Obviously, he feels free to use whatever statistics suit him and no one else is permitted to refer in the debate to anything other than the current financial year. Fortunately for us, the rules of the Parliament allow us equal freedom on both sides to debate these issues.

Having quoted the figures for a number of years, the Chief Minister then argued that none of the three policies announced in 2004 had anything to do with the surplus generated since. It was all down to increased profitability of companies, which he had brought about. So what does the audited accounts for 2004/2005, now available, show? It shows that the Government presented in this House revenue estimates in 2004 of £172.2 million and that the result was that the revenue collected exceeded the estimate by £9.385 million. The higher revenue was obtained indeed as the result of higher collection of company tax. But when I asked in the House whether the higher amount collected in March 2005, just before the financial year closed, was an indication of increased profits or greater collection of arrears, the explanation was that I should not assume this. Members will remember that, but for this fortuitous £10 million collection in the final days of the financial year, there would have been a deficit in 2004/2005 as well. Let me add that it is not just me that thinks it is legitimate to compare estimates with results. The Principal Auditor regularly does this. It is interesting to note that the Principal Auditor asked the Commissioner of Income Tax for an explanation of why the receipts of company tax had exceeded the estimates by £10.819 million in that financial year, 2004/2005. The Principal Auditor quotes an estimate of £19 million and an outturn of £29.819 million. The Commissioner's reply was that the £10 million plus which was collected in March 2005 was actually attributable to efforts to assess and collect tax quicker that had resulted in two years of assessment being collected in one financial year. In addition, the Commissioner supplied the Principal Auditor with the answer to my Question No. 1439 of 2005 which addressed the source of this increase in revenue. A number of things are worth noting in relation to the information in the Principal Auditor's Report. It examines the difference in a number of revenue heads under Head 1, Sub-head 2, Company Taxes. That and others. What is clear is that if we consider this sub-head, it shows an increase of £10.819 million and that the total revenue shows an increase of £9.385 million then it is obvious that the total of all the other areas of revenue together fall short of the Approved Estimates. In fact, if we remove the

increase in Head 1 alone, it is more than the sum total of all the revenue heads. The second point about the particular subsection, is that the original estimate of £19 million was for £17 million in company tax and £2 million in exempt company fees. On page 17 of the approved Estimates of Revenue and Expenditure, the actual revenue column for 2004/2005 which was provided in last year's Budget, showed company tax collected of £27.843 million and exempt company fees of £2.76 million. It seems obvious that these two items are taken together under Head 1, Sub-head 2 in the audited accounts for that same year, though they have been shown separately in the Approved Estimates of Revenue and Expenditure booklet in Head 1, Sub-head 2 and in Head 2, Sub-head 4. When the two separate entries are added, there is a sum of £0.5 million more than in the combined figures. Since the total revenue is the same in both documents, I have to assume that there is a part of either the exempt company fees or the company tax in the Approved Estimate book which covers the sum of £0.5 million which must appear somewhere else in the audited accounts, which is not a practice I have come across before.

Still, on the divergence between the revenue estimates and the results for 2004/2005, we have the following comments in the audited accounts. Head 2 Import Duty showed an estimate of £32 million which was not achieved. As I have mentioned, practically all the other Heads under achieved. However, the department had submitted, we are told, an estimate of £29 million and apparently this had been changed when the figures were presented in this Parliament. The same was the case with house rents which were estimated at £2.5 million by the department and changed to £2.6 million for presentation here and not even the department's £2.5 million estimate was achieved. In Head 4, Sale of Stamps, the amount expected was put by the Post Office at £670,000. The budget in Parliament had a figure of £900,000 and no explanation for the change given by the Post Office to the Principal Auditor. Similarly, in Head 5, rents were estimated to yield £1.8 million and were subsequently increased to £2.1 million for presentation in the Estimates. The changes identified by the Principal Auditor and

the explanations he had requested from the departments shows that the estimates of the departments were much closer, in many instances to the results finally obtained, than the figures presented to Parliament as the Government's estimates of revenue in predicting the expected results for the Budget for that year. It would appear therefore that increased accuracy could be gained, Mr Speaker, by reflecting in the book before us the figures that are suggested by the departments in the first place.

What is even stranger about these alterations to the estimates of revenue proposed at departmental level is that the figures published have been increased, yet we were told in last year's Budget by the Chief Minister that the opposite was taking place. He said revenue estimates are calculated on the conservative side in order to provide a buffer in the event of unexpected falls or volatility in revenue levels. The Principal Auditor's comments for the financial year 2004/2005 certainly show that this is not what happened in that particular year. So what about 2005/2006, which as I have mentioned, we are now fortunate enough to have the final audited accounts tabled at this meeting of Parliament. The Consolidated Fund revenue was £16.4 million higher than predicted by the estimates and it was in explanation of this difference that we were told last year that it was the result of conservative estimating. A total of £7 million of this was higher income tax which the Commissioner of Income Tax attributed to a more stringent approach to timely payments of PAYE, plus the reduction of PAYE arrears of £2.37 million, plus increased yields from self-employed persons. It seems the blitz on arrears does have something to do with the results of last year after all. The overall arrears position in respect of Consolidated Fund revenue, according to the Principal Auditor's Report, was £66 million in 2004, £57.7 million in 2005 and £54 million in 2006. Improving revenue after 2004 and the elimination of surpluses clearly has something to do with the concurrent reduction of arrears. That is to say, when the budget surplus is small the effect on arrears is small, and we see that there is a correlation in the increase in the surplus in the reduction of the arrears which is not 100 per cent because it is not the only element that there is a clear link. Another element

in the increased yield reported a year ago was company tax of £25 million instead of the estimated £20 million. This was not, as might have been assumed from the explanations given by the Chief Minister last year, because £20 million was a conservative estimate and company profits had shot up by 25 per cent. It was the more prosaic explanation now available in the audited accounts that it was the tail end of the exercise initiated the previous year, which had involved prompt assessment and collection of company tax. The other element identified last year by the Chief Minister was an increase in gaming tax of £1.8 million resulting from an increase in the cap on this tax and the decision to pay a higher dividend by Gibtelecom which produced an increase over the estimate of £1 million. An extraordinary revelation in the audited accounts for 2005/2006 has however greater significance for the assessment of future revenue estimates. The Principal Auditor has established that the manner of calculating arrears of personal and company taxes were massively understating the true picture. In the accounts prior to 2005/2006, the arrears table had a footnote indicating that the amounts were net of credits. The 2004/2005 accounts in this respect shows arrears of taxes as follows:

Individuals	2004: £4.475 million
	2005: £5.469 million
Self-employed	2004: £10.070 million
	2005: £7.711 million
Companies	2004: £8.287 million
	2005: £9.178 million

The total for these three categories was therefore in 2004 £22.832 million and in 2005 £22.358 million. This year the audit reveals that the net of credit footnote had been applied on a global basis. That is the credit for the whole body of tax payers in each category has apparently been offset against the debts in that same group. The Principal Auditor points out that tax payers' credit cannot be offset against the tax debts owed by different individuals to those tax payers to whom the credit applies. The result of re-stating the tax arrears position is that

the figures that I have just quoted in the previous years' audited accounts, have been uplifted in this final set of accounts by between 50 per cent and 100 per cent in the different categories. This uplift of between 50 per cent and 100 per cent has produced new figures for 2004 and 2005 which now totals £37.668 million and £35.356 million and a figure for the first time for 2006 which is £34.294 million compared to the previous total tax arrears of £22.837 million and £22.358 million for 2004 and 2005 respectively. The blitz, it seems, has still some way to go before it runs out of steam. Therefore, this is an important piece of information in terms of what we can expect, to be generated in increased yield, not necessarily because of increased activity but because of the catching up exercise and of reducing those backlogs.

Last year when the Estimates were presented there were three figures given for the results for 2005/2006. First a higher budget surplus than estimated in 2005, then the printed book was amended to take account of higher income by the Electricity Authority requiring a lower subvention from the Consolidated Fund and finally, in the Chief Minister's speech we were given a figure for what was described as the overall budget surplus by including the forecast outturn of the Consolidated Fund and Government agencies and authorities. This concept of overall budget surplus was the mirror image of the overall budget deficit of 2004 when the Government insisted that the Consolidated Fund deficit, then thought to be £1.33 million, was the proper way to look at the years performance and that there should be no linking of it to the deficits in the other entities. It seems that there is a right way to look at it when the years results are in the red and a different, but also right way of looking at it, when the years results are in the black. The overall budget surplus concept has again been used in the Chief Minister's presentation of the Budget this year but of course is not the figure that appears in the Estimates we are approving in the Consolidated Fund.

We, of course, on the Opposition are limited at this stage to the information in the Estimates book and what we have gleaned

from answers to questions throughout the year. Indeed, when I asked before last year's Budget, for the combined results which nets out transfers between the Consolidated Fund and the other bodies, I was told that I would have to wait for that information from the audited accounts which is of course what I am doing today. Another change that has taken place presentationally, is that up to the 2005 Budget, total Government revenue and expenditure in the published Approved Estimates book was described as including State pensions and benefits, receipts and payments and this showed, for example, in respect of 2005/2006, that the receipts were £17 million and were expected to fall short of the payments at £20 million by £3 million. The graphics produced in the approved figure last year for the estimated revenue for 2006/2007 had the new definition of total Government revenue and expenditure, different from the one that had been applied until 2005/2006, and this time excluded the revenue of the Social Insurance Fund and its expenditure. The Chief Minister last year tried to demonstrate that there had not been a clampdown in public spending and that this was not one of the reasons for the appearance of the budget surplus. However, here again the figures he quoted to try and refute this analysis did the very opposite, they confirmed it. He highlighted that in 2003/2004 public expenditure rose by no less than 12.7 per cent. He proudly emphasised this point by saying "and this is just recurrent expenditure. I am excluding, excluding capital expenditure". He added "12.7 per cent in 2003/2004, a year in which inflation in Gibraltar was 2.2 per cent". Exactly so, Mr Speaker, 12.7 per cent which pushed Gibraltar's annual accounts into the red and provoked the clampdown.

He proved our point conclusively by adding that in the year which followed, 2004/2005, public expenditure rose by 3.5 per cent, a year in which inflation went up by 2.8 per cent. That is to say, a real increase of 0.7 per cent compared to the real increase of 10.5 per cent in the preceding year. Well, Mr Speaker, I do not think I would have been able to illustrate the point any better, nor do I think I was being politically ungenerous nor misleading in reaching the conclusion and the analysis that I

made, which is the accusation that was levelled against me. He also analysed in greater detail what had happened to expenditure the following year, 2005/2006. Consolidated Fund expenditure approved in the 2005 Budget was under spent by £2.8 million he told us. There is therefore no question that departmental budgets in the Approved Estimates were not exceeded in 2005/2006, possibly for the first time. In terms of year to year increase, the results for Consolidated Fund expenditure in 2005/2006 totalled £1.8 million less than in 2004/2005, however this was because the figure for 2004/2005 had included the subventions for clearing deficits in the agencies carried forward from 2003/2004. We were told that recurrent expenditure therefore went up, adjusting for this figure, by £4.4 million. If we ignore the £6 million or so included in 2004/2005, to meet the 2003/2004 uncovered deficits then the increase represents a yearly increase of about 2.5 per cent in line with inflation. If we accept the breakdown given last year by him for the £4.4 million increase that it was a £3 million increase in pensions and £1.4 million to meet the pay review, then neither of these cost increases could possibly be considered to be an increase in the departmental budgets to provide any more resources in 2005/2006 than was already there in 2004/2005. The Chief Minister then went on to show what was being provided in estimated expenditure for 2006/2007. However, he did this by showing the expenditure distributed in Government departments and in different Government agencies, as he has done this year, which is of course the way it will eventually appear in the summary in the audited annual accounts, the most recent of which we have just had for 2005/2006, and the 2006/2007 which we will have to wait for until next year. On that basis, which is not the way the figures appear in the Appropriation Bill, Consolidated Fund expenditure was budgeted to grow by £3.6 million from £131 million to £134 million, or 2.7 per cent which is, in fact, the rate of inflation between April 2006 and April 2007.

Almost all of the additional £3.6 million provided in last year's Budget was taken up by the provisions to meet the annual pay review and the annual increase in Civil Service pensions leaving

precious little for providing increases in other departmental expenditures. In spite of the clearest possible evidence of this control, in the year to year increase in departmental spending in 2004/2005 and in subsequent years, the Government persists in the fiction that the existence of these controls is a story we are making up. Well, Mr Speaker, the people who work in Government departments know we are not making this up. The forecast outturn now shown in this year's Estimates is for Consolidated Fund expenditure of £187 million, compared to an approved estimate of £188 million. Departmental expenditure for the current financial year is budgeted at just under £10 million increase on the amount spent last year. These figures in the Estimates book are without netting out the transfers to Government agencies. This represents a 6.2 per cent increase over the forecast total departmental expenditure shown on page 4 of the Estimates book. In part, the higher provision this year seems to be reflected in the amount budgeted for the pay review which is shown as £3 million compared to last years £1.5 million.

Another aspect which the Chief Minister chose to highlight in moving the Appropriation Bill last year was the level of employment. He told the House that the October 2005 Employment Survey showed an increase of 880 new jobs with respect to the results for October 2004. To put the record straight, the correct figure shown in the Survey was 820 new jobs, since 60 of the jobs were figures excluded from the Government Employment Sector in Education in previous years, since they did not form part of the permanent complement and this, therefore, did not represent an increase. It had been there but unrecorded. He then went on to make an analysis of the labour market by telling us that 782 of these jobs were in the private sector, of which 371 were in the gaming industry. This confirms the point of how dependent the private sector and the economy is on this particular industry. At that point, he went off at a tangent on a totally irrelevant and incorrect analysis of the number of Gibraltarians that formed the economically active population, in order to avoid telling us how many of the 782 jobs

had gone or not gone to Gibraltarians. The information is readily available in the October 2005 Employment Survey Report.

Can I just remind Parliament at this point, Mr Speaker, that the October 2006 Employment Survey Report has been tabled this afternoon and that, therefore, none of us on the Opposition have had an opportunity to study it or be in a position to give an opinion on what has happened in the intervening 12 months, or a reply to the figures that have been quoted in the opening statement of the Chief Minister. As regards the 2005 position, there was between October 2004 and October 2005, a fall in the number of male Gibraltarians of 22, in spite of the extra 880 jobs. The number of female Gibraltarians went up by 28 from 4,344 to 4,372, providing a net gain of six in Gibraltarian employment out of this so called 880 increase. This was in the economy as a whole, taken public and private together. In the private sector, Gibraltarian employment losses were 43, 26 male and 17 female. Further analysis shows that Gibraltarian full time weekly employees went down by 62, 40 males and 22 females, whereas there was a gain in monthly paid jobs of seven, two male and five females.

The total effect of these changes is the loss of 55 full time jobs and a net increase in part time female employment of six. Given, as I have already mentioned, that 60 of the 880 additional jobs were already there in 2004 in the Government sector, most of them occupied by Gibraltarians but not reflected in the statistics, it is clear that, in the case of the 2005 Employment Survey Report, the number of Gibraltarians employed in 2005 reflected in the Report was lower than the figure in 2004. In order to hide this fact the Chief Minister came up with a ridiculous argument about the economically active Gibraltarian population, which he claimed was identified in the 2001 Census. In fact, the 2001 Census for the economically active population is based on residence and not on nationality and, therefore, no such figure is quoted there. Nor is it possible to extrapolate from the resident population Census figures, using the Gibraltarian labour force numbers from the October 2005 Employment Survey Report which, is calculated on a

completely different basis and which presumably, was what the Chief Minister was trying to do when he said that despite a constantly ageing population, the number of economically active Gibraltarians was 11,203 in October 1995. This, he claimed, was supported by comparing the numbers employed in October 2001 and October 2005. So presumably, he should have said 2005 and not 1995 last year. He concluded then that this proved that 97 per cent of Gibraltarians were already employed and that we already had full employment last year.

This time he has told us that there has been an increase in the number of Gibraltarians employed. Now, if in fact we had full employment last year and there was 97 per cent of Gibraltarians already employed last year, then the increase this year would have put us as having a level of Gibraltarians employed in excess of 100 per cent of all the Gibraltarians. But what the Chief Minister has done, clearly, is to produce a concept of economic activity where the economic activity will always be such that he will be able to argue, irrespective of the number of Gibraltarians, that there are always 97 per cent. So it was 97 per cent of the figure last year were the people that happened to be employed, and 97 per cent of the figures of the previous year was also 97 per cent of the people who happened to be available. So the concept of economically active is, that it is arrived at by grossing up the numbers in employment on the premise that the numbers in employment must be described as 97 per cent, in order to provide the Chief Minister with the argument that he then went on to produce which was the whole purpose of the exercise. Because the analysis which he gave last year, which was utter and complete rubbish, had a clear purpose. Assuming the Chief Minister realises this, the question then is why did the Chief Minister want to argue this? Well, simply to justify the influx of frontier workers which he has constantly welcomed and which so many of our people complain about. To emphasise this, having made this assessment that there was now 97 per cent employed in 1995, and we are now told there was 97 per cent employed in 1996, he then went on to say "indeed, since 1996 the number of Gibraltarians in employment has risen from 9,390 to 9,870 - an

increase of 480, all women” and then added, “if we go back to 1988, the number of Gibraltarians in employment has risen by 1,034 composed of 945 women and 85 men.”

I am not sure whether he was taking the credit for the increase between 1988 and 1996 as well, but it would certainly come as no surprise. Adding these figures and basing oneself on the ones the Chief Minister has quoted, male Gibraltarian employees grew by 85 from 1988 to 1996 and by none between 1996 and 2005. Therefore, by the criteria he used previously, there must already have been full employment for male Gibraltarians in 1996 and they must have already been 97 per cent of the economically active males in 1996, because nothing was added to it between 1996 and 2005. But for some reason we have yet not discovered, there was an increase out of nowhere in economically active Gibraltarians in October this year, to enable that golden 97 percentage to be maintained in respect of the new Employment Survey, which will merit future analysis once we have finished with the Estimates. As regards the female Gibraltarian employees, the position is that his figures show that this increased by 565 between 1988 and 1996, and by 480 between 1996 and 2005. These increases, of course, between 1988 and 1996 that the Chief Minister has kindly reminded us about in last years presentation of the Appropriation Bill, suggest that he has forgotten that in 1996 he was ranting and raving from the Opposition side of the House about the massive unemployment crisis we were in the middle of which, of course, is not consistent with the figures he has quoted. What do the relevant Employment Survey Reports for those years show?

Between April 1988 and April 1996 the number of Gibraltarian men in employment rose from 5,565 to 5,699, an increase of 134, and the number of Gibraltarian women went up from 3,219 to 3,749, an increase of 530, giving a total of 664. From April 1996 to October 2005 the number of Gibraltarian men in employment fell, 201 from 5,699 to 5,498 and the number of Gibraltarian women in employment rose 623 from 3,749 to 4,379. The overall net effect is therefore 422 more Gibraltarian

women working in 2005 than there were in April 1996, this being a net increase in the workforce from 9,448 to 9,870 and representing an element of women replacing men in that work force.

Indeed if we look at one particular industry, the construction industry in the private sector, where so much activity has been taking place in the last couple of years, there has been in the period since 1996 a 50 per cent increase in jobs from April 1996 to October 2005, with male construction workers up from 997 to 1,493. However, Gibraltarian construction workers, as part of these figures, have gone down from 531 to 463 in the same period. This then, is the real picture which concerns many Gibraltarians but obviously not the Chief Minister or the rest of the Government. The whole purpose of the figures he selectively quoted last year, was to try and show that Gibraltarians have not been losing jobs to outsiders in order to be able to conclude his analysis by saying “the Government therefore rejects the economically misconceived pseudo nationalistic and politically motivated remarks, one hears from time to time that there are too many Spanish employees in Gibraltar.”

Well, he may think that, but many Gibraltarians, I can assure him, do not agree with him. He is entitled to have his view but I can tell him that the increase in the jobs in the private sector have been, in many areas, at the expense of Gibraltarians who have not been able to compete with the influx of workers across the border. I can assure the Chief Minister that the people that come to me with that particular grievance do not think it is a laughing matter. If the Chief Minister thinks I am making it up then I have to tell him I have quoted Government surveys published by his Government since 1996. Yes, people come to me because I am much more accessible now that I am in Opposition than they are in Government, as always happens with Oppositions and Governments. When I was in Government, I suppose they went to him with their complaints and this is why, notwithstanding the fact the figures he quoted show that not one single Gibraltarian job has been added between 1996 and 2005,

he himself said so last year, all the 480 jobs he claimed had come into existence between 1996 and 2005, he said were all female and not one male. Well, when he was here he was complaining that there were male unemployed. Where have they gone, all those male unemployed in 1996, if they have not been added to the work force since? They are still there presumably and are now coming to my office instead of his, still unemployed?

Just like he believes, or wants us to believe, that the Gibraltar workforce has now run out and there is full employment. Let me say that perhaps I need to finesse that analysis of what he believes after hearing him today, because it is not true that he believes. He believed last year that the workforce had run out. He now believes that the workforce expands on a yearly basis and contracts on a yearly basis, to ensure that 97 per cent of it is always employed and no more than 3 per cent is unemployed. So now he also wants us to believe that the business community has become very profitable since the last elections and that the company tax receipts, based on this huge rise in profits and not on faster collection of tax, is the principal factor contributing to the surplus, even though the Principal Auditor's Report and the explanations given by the Chief Minister to me in this House show the contrary.

What is the position as regards the company sector as reflected in the answers to questions that I have tabled in Parliament? The liability to tax of companies in Gibraltar has, since 2003/2004, been based on around 1000 companies showing a profit. Of these, some 800 companies had profits of less than £3,000 a month. These 800 companies were liable to the 20 per cent tax rate, and the average tax bill of these 800 companies has been £2,500 a year, to produce £2 million yearly tax payments. The 200 or so larger companies were liable to the 33 per cent tax rate, with an average tax bill of £110,000 and an annual yield of £22 million, giving a corporate tax base of £24 million, which has been growing by an average of £2 million a year made up of an element of increased profitability and additional tax payments from new entrants, which appear to be

around 25 to 30 new tax paying companies per year. Indeed, in last years Budget, the Government estimated company tax receipts of £22 million, confirming the analysis that I have just made, which is drawn from the information that the Chief Minister has provided in answer to my questions on tax matters, even though there was a policy of faster assessment and collection, which had been operating since 2004/2005. The forecast outturn shown in this year's Estimates is £24 million and the estimate for the current year is repeated at £24 million. These figures cannot justify the conclusion reached by the Chief Minister last year, that the surplus was the result of a huge increase in company profitability. It is not that we do not want a huge increase and it is not that we would not want to see a lot more money coming in, it is just that it is not supported by the information in the documentation available to the Parliament, or in the answers given in Parliament by the Chief Minister. Since 2003/2004, when there has been a period of an increased surplus, the increase in profitability has not been dramatic. It has been of the order that I have given, which is perhaps consistent with the annual increase in GDP, part of which is a reflection of that higher level of profits. I do not know to what extent the proposed changes in taxation, announced by the Government today, as a move in the direction of having a uniform tax rate, have taken into account what is the current tax base but, presumably, given that we are talking about something like 20 per cent of the present companies paying tax, are the ones that account for something like 80 or 90 per cent of the actual yield. That is to say, there are about 200 companies out of 1,000 that pay £22 million of the £24 million, then if those are the companies paying the 35 per cent, I assume the Government has factored in how much other people, currently paying nothing, need to be paying for every percentage less of revenue that is produced by these companies. Clearly, the companies that are paying 35 per cent will welcome the reduction to an eventual tax base of 10 per cent or 12 per cent, but we assume that progress in that direction will depend on there being a substitute source, to ensure that the overall level that Government has got built into the Budget of around £24 million is not massacred, which it would be if there was no alternative. If

we are talking about the thing going down to one third of what it is now, then the Government would have difficulty, I would imagine, in maintaining anything like the existing level of public expenditure on the recurrent revenue, let alone, requiring, as is normal, that it should move every year at least by as much as inflation if not more. The changes post 2004 have not been the result exclusively of the arrears blitz and we have never argued that, but it is a fact, and the evidence shows that the arrears reflected in these accounts, is an element and it is an important element because it constitutes the fruits of the past and not of current economic activity. Therefore, the fact that I stressed this, is because in assessing the viability of the level of recurrent level and expenditure, something which the Chief Minister recommended we should be doing in this Parliament as long ago as 1997, when he told the House that it was important to ensure that in looking at expenditure levels we never became too reliant on areas that might be potentially exposed. We all knew, without spelling it out, what he was talking about then and those areas which might be potentially exposed are still there then and we have a situation where, of course, the size of the gaming industry, reflected again in the figures that have been quoted today, shows how dependant Gibraltar is on this particular industry. Certainly much more dependant already than it is on the MOD, even before the MOD reductions and, certainly, on the basis of the analysis of the Input/Output study which the Government contracted for the purpose of analysing changes in the structure of the economy. One would assume that the direct employment of the gaming industry has also an effect in generating indirect and induce demand within our economy which generates additional jobs.

So all these factors clearly mean that the move away from zero tax for these companies has to happen in a way that retains their presence here. It is important, and we are supportive of that continuing presence, and therefore it has to be at a level which will want them to stay here and still generate enough income to compensate for the fact that it has to be the same level for everyone, and we think that the move in that direction that is being initiated this year, is a move that needs to be carefully

costed and worked out so that we are able to maintain the presence of these tax payers in Gibraltar and their activities and able to maintain the revenue flows that are required.

In this year's Estimates, we have identified that the new level of expenditure planned by the Government is, in fact, following the pattern of the last three years although slightly higher this year than it was in 2004/2005, 2005/2006 and 2006/2007. The proximity of the Election in the current financial year has, of course, nothing to do with it, but it is true that the last time there was an Election was the year that public spending grew most rapidly, which was 12.7 per cent in 2003/2004. The £10 million that is being put into the Social Insurance Fund we are not, in fact, taking into account as an increase in recurrent public expenditure, not because it is not going to be required every year because it clearly is, but because, in fact, comparing like with like it does not represent an increase in resources for departmental activities. It is a transfer of money from the tax payers to the pensioners and, of course, it is something that is required because the level of the Social Insurance Fund reserves are such that it would not be able to meet the cost of the increase in pensions without this transfer of money. The Chief Minister acknowledged, I think it was in 2003/2004, that that was a situation that was approaching in the Social Insurance Fund and, clearly, that is the stage that we are. We have made clear that we believe that the Social Insurance Fund, following the changes which we did not support, of the new collection of social insurance contribution and the new percentage distribution, create a situation where we believe a different and a new approach has to be produced for funding the Social Insurance Fund and that that, of course, is something which we would defend in an election campaign and introduce in Government. It is not for us to try to persuade the Government to give up the system that they have put in and put something else in its place, although I must say, that even without trying to persuade them, they seem to be quite happy to cherry pick our manifesto and regularly having surfacing in the announcement that they make at Budget times. Obviously, I am not in a position

to prohibit the Chief Minister from cherry picking my manifesto so I am stuck with it.

The results that we have in the Consolidated Fund and in the Reserves of the Government, produce a situation which in our view has to be seen in the context of the ability to maintain a level of expenditure where some of the things that have been announced today we know, because we have been told, have not been factored into this Budget but will still leave, the Government believes, a surplus in the current year, albeit about half of the one that we are estimating. We believe that it is possible and have always argued that it is possible, to achieve consistently higher rates of growth. Indeed, the figure that has been produced as an estimate, based on the Employment Survey Report that got tabled today, suggests that the growth in the current financial year in which we are, would be much higher even than the 10.4 per cent of 2003/2004. If that indeed were the case, and if the Estimates in the House were also accurate, then strangely enough we would have a repeat in the Election year 2007/2008 of the phenomenon of the Election year 2003/2004, that there would have been much higher growth in GDP than there was in Government revenue, and much higher growth in Government expenditure compared to revenue than in any other year. We will not know until after it is all over, but what has been said today points the possibility that that might be the direction in which we are now embarked. Certainly, if the level of GDP materialises at £740 million or £750 million this year, that will be the baseline from which we will be making our projection when the time comes, when we have to put our specific stalls in front of our people for them to decide what they want to see happening in the next four years.

HON MRS Y DEL AGUA:

Mr Speaker, It gives me great pleasure to deliver my eighth consecutive Budget speech as Minister for Social Affairs, and the last before the next General Election. £125 million, Mr Speaker, is the very considerable amount that my Ministry has

expended to date in the provision of social care and support services for those who need it in our community.

I very often take the time to examine my conscience as Minister responsible for these areas, and to analyse how we have progressed and where we could do better. It is not easy to do this coldly and objectively when our political opponents have made it their lives' ambition to constantly try and belittle or denigrate my Ministry's achievements, often hiding behind party literature and machinery in order to avoid being publicly challenged. They obviously believe that if they throw enough mud, even if the throwing of the mud is unwarranted, it will eventually stick. But despite their persistent, and in my opinion, failed attempts at portraying a picture of doom and gloom, my analysis of the situation always throws up the same conclusion, and that is that I am extremely proud to have overseen the year on year investment in human and financial resources, which have allowed social services to develop as they have for the benefit of our community. There is more to be done, but considering the stagnant, under-funded and politically abandoned services that we inherited in 1996, we have certainly come a very long way.

If Mr Speaker will allow me, I would like to share my analysis with him and the other Members, and I will try to summarise as briefly as possible the social measures which have been adopted by this Government so far.

The Elderly

For the first time ever, a Gibraltar Government has devised and implemented an integrated and progressive plan for elderly care, signalled from the outset by the designation of a Minister with responsibility for the elderly, and the setting up of a dedicated statutory Elderly Care Agency to plan, coordinate and deliver services to the elderly, and which took on the full financial and managerial responsibility of Mount Alvernia. The policy has at its core, enabling the elderly to stay at home for as

long as possible, which is what most obviously want to do, followed by increasing levels of support as need and dependency increases with advancing age. Staying at home for as long as possible is facilitated by the on-going programme of lift installation in Government estates, which gives the elderly more freedom of movement and quality of life. It is facilitated by the delivery of personal care at home through domiciliary services; and it is facilitated by this Government's decision to fund and properly resource the four day centres for the elderly, which provide meals and companionship to our more vulnerable elderly. For those who need just a little more sheltered environment, we have built 86 flats at the hugely popular Bishop Canilla House, specifically designed for the elderly and supervised by wardens to provide added support and security. The new Waterport Terraces will provide another 140 similar homes for the elderly. The next stage of residential care is at Mount Alvernia which has been marvellously transformed. Residents now receive quality nursing and personal care from a dedicated and hugely increased level of staff, fully funded by Government, in a building which has doubled in size and has been refurbished to a very high standard. Last year, Government inaugurated a new hi-tech swimming pool for the elderly and for the disabled which has proved to be tremendously popular. Mr Speaker, it is very gratifying to hear from many elderly people that this facility has transformed their lives. We have also provided a comfortable and reliable bus service. I think it goes without saying, that the elderly today are financially better off than they have ever been. Income on occupation retirement pensions for any person aged 60 and over is now tax free. Social Insurance contributions are no longer payable when a contributor reaches the age of 60 and credits are awarded until the person reaches retirement age at 65. The compulsory purchase of an annuity by pensioners who are not on final salary occupational schemes has been abolished, allowing pensioners to withdraw the whole of their capital tax-free. Over 700 elderly people have taken the opportunities that we have offered to complete their social insurance records, thereby entitling them to a full or higher old age pension. Another opportunity will now be given, and we are

looking at ways of addressing, the requirement that a person needed to be in insurable employment at a certain date, to see whether it is possible for them to also pay arrears. We have introduced a minimum income scheme that guarantees that no elderly person has to live below a certain level of income. As already announced by the Chief Minister, the recent old age pension increase will be disregarded when assessing entitlement to Minimum Income. In effect, this will enable all pensioners to benefit fully from the 65.2 per cent increase to old age pensions. For those persons on minimum income who are not in receipt of an old age pension, an extra supplement will be provided since they have not benefited from the increase in pensions. We have issued high interest, tax-free pensioner bonds to boost savings income. We have abolished tax on savings income and death duties. We have frozen house rents. We have provided free TV licences. We have provided free bus travel for over 70's and we have abolished road tax for any vehicle registered solely in the name of a person over 70 and driven principally by that person. As we have heard from the Chief Minister, road tax has been abolished for all persons collectively. These are some of the measures that we have adopted to financially help the elderly in a dignified way.

Social Services

Moving on to Social Services. Mr Speaker, not too long ago I read in the press, with some degree of cynical amusement I must admit, that the Opposition Members in their annual general meeting had passed a motion deploring and condemning Government, and I quote "for the insensitivity shown to the most vulnerable in our community, to our disabled people and to our children and adults in care, and for the very serious shortcomings in the way the Social Services Agency has been run for a number of years, something that the GSD Government has been aware of but has done nothing to address". Mr Speaker, one might be forgiven for thinking that these words were coming from the lips of a party who had either never been in Government, or who when in Government proved to be the

champions of the vulnerable. But neither of the two is the case. It comes from the mouths of a party who for eight years did precious little for those they like to term “the most vulnerable in our community”. During the eight years that they presided over Gibraltar’s affairs, both the disabled and children in care were the forgotten few. There was not one single increase in disability allowance during the whole of their eight years in Government. When Dr Giraldi Home was eventually built out of dire and immediate urgency, it remained unoccupied for a number of years because the Opposition Members claimed they could not afford to open it. When they finally opened it, the best they could do was allow the Church to run it on a shoestring budget. The respite service which they enjoy criticising so much, was virtually inexistent during their time, even though families of disabled people had the same needs and problems in their daily lives as they have today. Children in care lived in undignified and overcrowded conditions in an institution run by unqualified house parents. These children were completely stigmatised and had to rely on hand-me downs and charity, because the funds which were provided for their needs were pitiful. Their quality of life was deplorable. There are other vulnerable people apart from the disabled and children in care. We have elderly people who are vulnerable, families on low incomes who are vulnerable, people with drug problems who are vulnerable. None of these vulnerable people benefited one iota from the policies of the Opposition Members opposite when in Government. Social Assistance benefits remained static for eight years, the elderly had to survive on a miserly allowance and drug addicts had to go to Spain for rehabilitation. So, I do not think the Opposition Members are very well placed to lecture me or this Government about the protection of vulnerable people, and I can assure that vulnerable people do not need to be saved or protected from this Government. We have a track record to prove this and the Opposition Members have a track record that proves otherwise.

I said at the beginning of my speech, that Social Services had come a long way. Not wishing to take up a lot of time by going into detail, I will proceed to give a bullet point summary of our

achievements in this area. I give notice that it is a lengthy list, but I feel it is my obligation to inform tax-payers of where their money is being spent. May I add, for the sake of clarity and for the record, that the measures and initiatives which I am about to relate have been taken by this Government and did not exist before 1996. These are:

- The establishment of a unified statutory Social Services Agency;
- Huge investment in financial and human resources;
- The establishment of a statutory fostering service for children and young persons;
- The closure of Bishop Healy Home and the setting up of small group homes for children in care;
- A counselling psychology service for children and adults;
- The setting up of a Court Social Work Team;
- The establishment of Community Service Orders for offenders;
- The adoption of a comprehensive drug strategy and the appointment of a dedicated co-ordinator;
- The establishment, staffing and funding of Bruce’s Farm;
- The introduction of a community based service for juveniles with drug problems;
- The introduction of legislation to combat under-age drinking;
- The building of a new purpose built prison;
- The allocation of premises and financial support to the victims of domestic violence;

and for the disabled, Mr Speaker:

- The designation of a Minister with responsibility for disability issues;
- The unitisation of Dr Giraldi Home into separate flats for more homeliness and privacy;
- A huge increase in staffing levels at Dr Giraldi Home;
- The introduction of a supported living scheme;

- The establishment of a structured respite service which I am pleased to report has been functioning smoothly and without cancellations for a whole year, thanks to a great extent to the good offices of the new manager;
- The creation of a fund to provide free mobility aids;
- Funding of the shop mobility centre;
- Funding of home help;
- The building of a purposely designed swimming pool;
- An on-going programme of refurbishment and reconstruction of thoroughfares and other public amenities in a disability friendly manner;
- Heavy investment in a public bus fleet which specifically caters for the disabled;
- The introduction of legislation to prohibit discrimination against disabled persons in the field of employment;
- The payment of a death grant to relatives even if no social insurance contributions have been made;
- An increase of 162 per cent in the disability allowance.

Social Security

In the area of social security, so far we have increased Social Assistance payments, which were static for many years, by 40 per cent. Maternity Allowance has been extended from 14 to 18 weeks and has seen an increase of 50 per cent since its introduction. The combined parental earnings limit for entitlement to the Child Welfare Grant has been increased this year from £35,000 to £45,000 and the grant increased from £30 to £40 per month. Industrial Injuries Benefits have been increased by 50 per cent. Unemployment Benefits have been increased by 45 per cent. Maternity Grant has been increased from £36 to £400 and means testing has been removed. The Death Grant has been increased from £72 to £400. As the Chief Minister has already reported, we are now in a position to meet two very important manifesto commitments. Allowing married women to pay back arrears of contributions between the reduced Social Insurance stamp and the full stamp, and giving

divorced women entitlement to a pension based on their former spouse's contribution.

In concluding, the moral of the story is this: One does not need to be a Socialist to have a social conscience and to deliver social justice, and not all declared Socialists have a social conscience or deliver social justice. Before I conclude, I wish to express my most sincere appreciation to all members of staff under my Ministry, without exception, who for the past eight years have consistently shown their utmost loyalty and have demonstrated a high level of commitment to their job. I also thank you, Mr Speaker, and all hon Members for your attention. Thank you.

The House recessed at 5:30 pm.

The House resumed at 5:45 pm.

HON C BELTRAN:

Mr Speaker, the Government's extensive housing programme continues to make impressive and unabated headway in all fronts. Despite an inevitable short delay to the timetable at Waterport Terraces, Government is totally satisfied with the quality of the construction works that will deliver, in phases, as from October this year, 396 excellent, affordable homes and 140 purpose-built flats for the elderly. Many of the blocks in this development have already attained their full height including the roofing, and are at the fitting out stage. Construction is also making good progress, for a further 392 low cost housing at Nelson's View, Cumberland Terraces and Bayview Terraces and plans are now ready for up to 500 more to be built at North Gorge. All these projects will no doubt now satisfy the demand for this type of quality, low cost homes and, importantly, they have already had the very welcome added effect of decreasing Government housing waiting lists sharply. In addition to the above, Government continues to pursue its policy of selling empty pre-war houses in the town and other areas and also to

allow sitting tenants of pre-war houses throughout Gibraltar who wish to buy their houses to do so.

Mr Speaker, I am pleased to say that the land required for the Mid-Harbour project in front of HMS Rooke and adjacent to Coaling Island has now been almost fully reclaimed and it is there for all to see. It is estimated that the re-direction of services and such other necessary technical aspects of the reclamation project will be completed in October of this year. Soon after that, and as has already been announced, construction will commence on that site on a major, new residential estate for renting to be built on the 18,000 square metres of reclaimed land. This significant, new Government venture is the first such large housing project for renting since Varyl Begg Estate was built in the early 1970s and the new project will include parking facilities for tenants beneath the estate's residential blocks of flats as part of the plan. Mr Speaker, all these moves are a major boost for the housing aspirations of people in Gibraltar, particularly for those on the housing waiting lists.

Mr Speaker, the Government's commitment to its comprehensive housing programme goes well beyond the construction projects and the implementation of other policies and schemes, some of which I have already mentioned and fundamental and vital as these are. This year I am again privileged to report that the Government, unlike all other Governments in the past, has continued to invest heavily in its housing stock. During the financial year 2006/2007, some £3 million have been devoted to major repairs of buildings and I am pleased to inform hon Members that such a commitment will be maintained during this new financial year. In order to provide some perspective, since 1998, expenditure in all these projects has been in the region of £23 million. This has enabled substantial progress, for example, within the Varyl Begg Estate, with the on-going construction programme of new roofs and installation of lifts, under phase 3. This has entailed four blocks, namely, Warspite, Barham, Orsova and Oronsay that have been

completed, whilst an additional fifth block, Cathay House, is already under commencement. The remaining blocks including Chusan, Aquitania, Canton, Royal Oak and Hermes Houses, will all similarly be tackled under phases 4 and 5 of the programme. Other major estates like Alameda are also undergoing external works in blocks such as Ross House at the moment. It is planned to subsequently continue the programme with Governor's Meadow House. In addition, substantial works have been conducted on Penney House, which has been recently completed, having undertaken a substantial transformation inclusive of new facades, new lift, and refurbishment of common areas. Even further, there are extensive repairs currently taking place at 51 Prince Edward's Road, Gavino's Dwellings and 9A Crutchett's Ramp – all of these fine examples of vernacular architecture and, therefore, being treated with the respect, due care and attention that they deserve. May I add that there has been an extensive on-going strategy to replace windows and shutters running alongside a continuing ambitious plan to provide specialist conversion works, in close liaison with the Gibraltar Health Authority's Occupational Therapy Unit. The beneficiaries of these conversion works have been mainly the elderly and tenants suffering serious medical conditions. In addition, and where necessary, the Government has funded major reparation of structural retaining walls within our housing estates, and other projects in or in the vicinity of Government housing areas such as, for example, the cliff face running alongside the eastern border of Laguna Estate. It is Government policy to pursue an extensive programme of maintenance repairs as well as a strategy for replacement of windows, in order to modernise our public housing infrastructure. This is essential, Mr Speaker, for our current and future tenants who deserve the very best in living accommodation, and quality of built environment. Such a commitment will undoubtedly continue into the future and so, apart from the on-going projects already mentioned, Government has new projects in mind for this new financial year involving different types of work in a wide variety of blocks, estates and housing areas around Gibraltar. For example, Government is planning for the external decoration and minor repairs on Harrington Building and also on Kent

House. Roof repairs and works on the water tanks in Referendum House and Constitution House. External refurbishment of Churchill House, Medview Terrace in Catalan Bay, Road to the Lines, with works on floors, roofs and walls in the latter, as examples. Mr Speaker, the manner in which public housing infrastructure has improved and developed over recent years is a testimony to this Government's planned regeneration strategy, the beneficiaries of which clearly are and will continue to be Governments tenants.

A word about Buildings and Works. Apart from Government's capital works programme in relation to housing stock, I should also highlight the high level of support Government is extending to Buildings and Works in an effort to improve services. During the last financial year, the Government has procured and thus substantially increased the fleet of vehicles available to Buildings and Works for the transportation of workers and the materials they require. This has included seven vans, including the passenger pickup type, and four larger vehicles for maintenance operations. All at a total cost of well over £122,000. This new fleet has made a positive impact to day-to-day operations and replaced older vehicles, which have become the worst-for-wear. Obviously, the Government is continuing to monitor the transportation situation closely and when operational circumstances dictate, vehicles will continue to be replaced as and when this is necessary. In addition, the Government have also embarked upon a recruitment campaign to fulfil the required manning level. This has created employment opportunities, for labourers and craftsmen, inclusive of masons, plumbers, painters, carpenters and MT drivers. I should stress that many of the new entrants have successfully completed national accredited training programmes through the joint UK awarding body known as the Construction Industry Training Board and City and Guilds London Institute. This training, known as National Vocational Qualifications that, incidentally, was undertaken at the Gibraltar Training Centre, has introduced a fresh impetus of young talented recruits whose skills are already being actively applied to response

maintenance. Also, and in order to introduce greater support and maximise operational output, an internal redeployment exercise has resulted in the creation of the post of Operations Manager, graded at the Higher Professional and Technological Officer level. This will help provide greater improvements in planning and programming so that minor maintenance works may be pursued more vigorously in an effort to reduce the current unacceptable backlog and make inroads in completion delays.

Mr Speaker, over and above the major construction and capital projects and housing schemes that I have already mentioned, I also want to highlight Government's determination to bring to fruition as from this forthcoming financial year, other longstanding, far-reaching Government policies. These include reforms of the system for the administration of Government housing in those areas that have been shown over time to require attention, reforms also of existing legislative provision as it relates to residential dwellings, and amongst other things, it is also very much Government's commitment to make provision also for anti-social behaviour legislation to cover all housing areas both public and private. This, Mr Speaker, is an identified housing and social need in Gibraltar's housing areas and very much Government policy. Mr Speaker, it is the Government's intention to take on greater responsibility for the general management and supervision and control of housing. However, conscious of our commitment to a policy of transparency and accountability any powers that the Government may acquire in this respect will always be carefully balanced by the right of appeal by a tenant or an applicant about any decision taken by anyone in the Ministry for Housing to a new Tribunal and thereafter to the courts. This policy, will be further established by the creation of a number of Councils such as the Housing Advisory Council that will assess and review matters such as the housing market in Gibraltar, particularly supply and demand, house prices and affordability both in relation to purchase and rental housing and to advise the Government thereon. There will also be a Government Housing Advisory body that will include

representatives of all established Tenants' Associations to advise Government on all matters relating to housing. At the moment, Housing Associations meet with me regularly but this body would give a more general all-inclusive view. Mr Speaker the question of rent arrears that the Government has been addressing for some time now will also be receiving closer scrutiny as from this financial year. Whilst it is still very much Government policy to continue with the existing procedure for the recovery of rent arrears by interviewing tenants who have been identified as debtors, the Government intends going a step further by introducing powers that will allow the Principal Housing Officer to serve a direction for the deduction of earnings for the purpose of paying rent due by a tenant who is a judgement debtor. This new measure will further enhance the established procedure for the recovery of rent arrears and will, therefore, bring improvements to the already proven success of the action currently being undertaken by the administration. Finally, in the area of public housing, I wish to reiterate and confirm Government's commitment to making statutory provision for the creation of a right for every Government tenant to buy his or her post-war flat or house. The Government plans to create schemes for that so long as all proceeds of these sales shall be invested in public housing. Mr Speaker, it is Government's contention that Gibraltar's social needs have changed over many decades. The focus for meeting Gibraltar's housing needs for the future is the construction of new, affordable homes for purchase and the construction of new Government housing for rental. The Government is embarked on both in very substantial quantities. Continuing to see the old Town Area, where most affected houses are located, as a means of social provision in the area of housing will further condemn the old Town Area to a state of increasing dilapidation that will threaten the very survival of an important part of our physical heritage and environment. Government, therefore, intends to take steps aimed in part to shifting the focus in pre-war housing legislation to the actual recovery of the Old Town itself, while at the same time protecting in a variety of ways the rights of existing tenants. Importantly, and in addition to protecting the rights and position of existing tenants,

Government is aiming to protect financially vulnerable tenants from the economic effects of rental increases by extending the Government's rent relief to private tenants in controlled tenancies.

Mr Speaker, a word on Anti-Social Behaviour. The Government is not oblivious to and understands the growing need for measures to curb behaviour that is unacceptable and detrimental to the social well being and stability of our society. By anti-social behaviour we understand any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, loss, distress, or annoyance, or any behaviour which disrupts peace and good order, including vandalism, violence, threats, intimidation, coercion, this kind of thing. Consequently, Government has plans to create a statutory framework for anti-social behaviour legislation in all housing in Gibraltar, both private and public.

The Government continues to promote training and development for its employees within the Housing Ministry and during the last financial year, much of this has been targeted at health and safety. Typically, this has included training in asbestos awareness, risk assessment and courses leading towards nationally recognised certification through the Institute of Occupational Safety and Health. In addition to the above, technical staff recently promoted to junior management and also junior administration staff will take part in a leadership and management workshop. Government is also supporting those employees who are undertaking the University of Durham Business School level 5 Diploma in Management courses as part of their professional development. Mr Speaker, an important part of Government's investment in services offered to tenants is a commitment to have a professional and qualified workforce. A workforce that is offered the possibility of personal, professional and skills development will result in a motivated and conscientious workforce in which the employee is capable of giving good service to our tenants. The Government,

therefore, will maintain such a policy aiming to encourage training and professional development wherever practically possible for its employees.

Mr Speaker, the Ministry for Housing continues to offer a large and very varied number of services to tenants that are sometimes taken for granted even though they represent a large investment by the Government. The services are taken for granted, not the tenants, obviously I have just mentioned training for our employees. The centralised Reporting Office is another example of this. This office runs a centralised reporting system and provides one source of contact for members of the public when seeking relevant information or assistance. This is proving to be a success. The system in use enables tenants' enquiries, initiated at that one office either by phone or in person, to be subsequently followed up by the officers there with Buildings and Works or any other agency used to deliver our services. On receiving a further relevant enquiry from a tenant about an already reported issue, this office keeps the tenant informed of the progress of the report and ensures that the necessary action is taken to resolve the matter in question.

Mr Speaker, the Ministry for Housing's Annual Report for the year 2006 is almost ready for publication and I have no doubt that, as was the case with the first such report for 2005, it will make interesting reading for everyone. The report for 2006 will contain a wide variety of, in some cases, illustrated articles on numerous aspects of the work carried out by different sections of the Ministry for which I have responsibility. The aim of this comprehensive report is to provide tenants especially, but the public in general with useful information and details of current housing services and reforms as well as future Government plans in housing.

A word on parking facilities for tenants. The House will recall that the trial period for the introduction of a pilot system of

parking for residents of Glacis Estate ended in May 2006. As a result, the situation was carefully reviewed with the Glacis Tenants' Association, taking into account also the feedback received from individual tenants. The much more improved system that has resulted is now in place in that estate. A similar, adapted system of parking permits has also been designed and is already in operation at Schomberg Estate and an enclosed area known as 6/8 Scud Hill. Also, the necessary street marking is being undertaken at Laguna Estate, parts of Alameda Estate and the Calpe housing area in the upper town with a view to introducing parking schemes for the tenants. The Ministry for Housing will continue as part of our regular meetings with the representatives of housing estates and in consonance with its established policy, to undertake surveys where possible and in conjunction with established tenants' associations in order to convert areas into residents only parking zones with a view to alleviating parking problems in these locations. I hasten to add that, in addition to these schemes within Government estates, Government is also constructing parking facilities in a number of locations around Gibraltar also in the vicinity of housing areas. Mr Speaker speaking of tenants' parking and other interests, I take this opportunity to inform the House that I continue to meet regularly with tenants' associations as well as with individual tenants and their families thus providing a clear and open process of consultation through which the real needs and concerns of people in the community are heard and acted upon as necessary. In this way too, ordinary citizens become true participants in the development of effective, far reaching housing policies. One of the needs signalled by tenants in the recent past and which Government has acted on swiftly has been that of safe children's playgrounds within estates. Prior to the allocation of responsibility for playgrounds to the Sports and Leisure Authority, the Ministry for Housing has made the best use of existing, suitable open areas in Government Estates and constructed safe, purpose-built playgrounds in a number of estates and housing areas. These have proved extremely popular particularly for families with small children and also for older children in the case where ball-playing facilities have been constructed. Further developments in these provisions will, I am

sure, as from this financial year fall within the responsibility of the Sports and Leisure Authority.

Cleaning Services, Mr Speaker, the Ministry for Housing considers the cleaning of its estates and housing areas to be very high on its list of priorities. It is our belief that all tenants have a right to a clean and well-kept environment. With this in mind we continue to employ the services of a private company and I am happy to report to the House that these continuing arrangements constitute a huge success story in respect of services to tenants. The work of the company employed for this purpose is monitored regularly by officers of the Ministry for Housing and this, together with reports from tenants on the ground, can leave one in no doubt as to the vast improvement that these arrangements have made to the neighbourhoods all around Gibraltar.

Mr Speaker, I take this opportunity to recognise the contribution that other departments and agencies make towards the successful completion of our work in the Ministry for Housing. There is the Education and Training Department who assist us from time to time with training programmes for our staff, the Ministry for Social Affairs who give us valuable assistance through their social workers primarily, the Gibraltar Health Authority who through their medical staff and Occupational Therapy Unit provide invaluable advice and professional assessments involving medical issues and, last but not least, the Royal Gibraltar Police for their unstinting support and co-operation in housing matters in the community. Not forgetting, of course, the members of the statutory committees who voluntarily and generously give of their time to advise the Government on, what is more often than not serious, and hugely difficult decision-making. To all these organisations, Ministries and individual persons I am truly thankful.

A word about the Ombudsman, Mr Speaker, whilst he quite rightly points to certain shortcomings of both Buildings and Works and the Housing Department, the Public Services Ombudsman nevertheless, and for the second year running, clearly indicates that in the past year, in the case of Buildings and Works section and I quote from the Ombudsman's report "there has been a remarkable improvement in the performance of this department in respect of complaints" and in so far as Housing is concerned, and again I quote from the Ombudsman's report, "There is no doubt that there is a steady decline in complaints lodged against this department, especially in 2006. My analysis of this improvement (continues the Ombudsman) is that they have improved in some aspects of their administrative procedures and now deal in a more efficient manner with their tenants and others seeking their assistance." Despite the fact that Housing and Buildings and Works received a higher number of complaints relative to other departments, the significant improvement over two years running is hugely encouraging not least of all to those members of my staff who make a very serious effort in raising the standard of the services they provide the public. I am very grateful to the Ombudsman for his comments and suggestions and I reiterate my commitment to seeing a further reduction in complaints.

Mr Speaker, to conclude, I will say that the House will no doubt acknowledge the massive investment the Government is making in new housing developments including purpose-built housing for the elderly, very affordable, quality housing for purchase and very high standard housing for renting for those who cannot afford to buy and all of these Mr Speaker, I emphasise, in prime locations around Gibraltar. The House will furthermore appreciate the multi-million pound investment policy Government continues to pursue relentlessly in refurbishment and repairs programmes throughout Gibraltar, in continuing to enhance the quality of both the physical and social aspects of the living environment in housing areas and also Government's efforts in bringing housing legislation into the 21st century. All of this, Mr Speaker, is clear evidence of the high priority that the Government gives to being attentive to and acting proactively

and successfully on the existing and developing housing needs of our community and therefore in satisfying these needs. Mr Speaker, I wish to conclude by thanking those members of my staff right across the Ministry, who through their hard work and dedication ensure a continuing and ever increasing level of service to the public in general. Thank you.

HON C A BRUZON:

Mr Speaker, when I took part in the ceremonial opening of the Tenth House of Assembly on 18th December 2003 I noticed that, after the oath of allegiance, the Chief Minister moved a motion and he said just a few words. The motion was of course to reinstate the Hon Judge John Alcantara as Speaker of this House. There is something in that little speech which the Chief Minister gave that I would like to stress today. I quote: "I think a Speaker must be getting it right when he gets under the skin of one side of the House and sometimes under the skin of the other side of the House. At other times, under the skin of both sides of the House, but usually under the skin of neither side of the House and I think (and this is the important bit) I think that the House has grown used to your style (meaning the former Speaker) of ensuring not only that there is discipline in this House and that every Member is given the maximum opportunity of using the House (and this is the important bit) Members must be allowed to hold Government to account.

It is precisely, Mr Speaker, to hold Government to account that I address Parliament today in those areas where I shadow the Hon Mrs Y Del Agua and the Hon C Beltran. These are Social Affairs and Housing; two very human portfolios, as I know the Ministers appreciate and indeed are very sensitive to, if I may say so, because we are constantly dealing with people or some aspect of peoples' lives. People who come to us with problems, they need help and in many cases they are desperate as the Ministers know, and I certainly know on account of the many people who have come to see me.

I sometimes ask myself the question, and it is a very simple one, is winning an election an end in itself or a means to an end? Of course the answer is very simple. Winning an election is a means to an end because the Government in power has to achieve what they promise in their manifesto. As far as the GSD Government is concerned, and going by their extremely poor performance in spite of what the Minister for Housing has said, and I appreciate they have lots of excellent ideas and lots of wonderful schemes but it is sometimes the implementation of these schemes that is found wanting. I am talking about the social issue of providing proper and adequate housing for our people. I get the distinct impression that for them winning an election, in some areas, is an end in itself. Holding Government to account means to me that there are areas in the way they do things that we do not agree with because we have a different policy and I point this out to them, assuming always that they are acting in good faith, and certainly without hurling insults at them. It is precisely for doing my job, Mr Speaker, as a representative of the people and indeed for doing what the Chief Minister said that Members must be allowed to do, namely to hold the Government to account and be given the maximum opportunity of doing so, that I stand accused by the GSD administration of being an unprincipled political opportunist, of persisting in my holier than thou attitude, of using shameful tactics at the expense of the sick and the elderly, of reaching the depth of insensitivity unashamedly in an attempt at scoring cheap political points and of using gutter politics in an attempt at distorting reality and all because I have attempted to highlight the plight of large numbers of people who have come to me for help and advice. Of course, we have had to express serious concerns in connection with the problems affecting the Social Services Agency. It is the families of the service users themselves who appeal to us to make certain issues public, and we do not make all of them public by the way. They ask us to do this because they are desperate, and we are not talking about just one or two isolated incidents.

Mr Speaker, citizens in democratic societies are usually not afraid to seek the help and involvement of their elected

Members of Parliament when they have problems with the provision of public services. It seems that under the GSD administration and considering how Government react to our attempts to help, Gibraltar is an exception to this rule. I keep asking myself the question whatever really happened to the common good? This must be the refrain, or shall I say, the constant refrain directed to all political parties and to all politicians who seem to make power and wealth the be all and end all of their very existence and forget the "Common Wealth" of peoples. The poor, the vulnerable and people with special needs must be remembered, but not just remembered, a sense of priority must be applied when dealing with them because they, as we all know, are equally part of our community. It is just not good enough for a Government to embark on apparently impressive enterprises that benefit only the rich and wealthy, while the poor and needy stay behind. I am thinking very specially of the many people who have been waiting for years on the different housing lists and particularly those who are medically and socially categorised. Those are the people that I am thinking about when I made the comment a second ago. When I challenged the Government recently, stating that it was due to their mistaken policy concerning the provision of adequate housing for our people, and that this was the reason that there were still so many on the housing lists and on the medical and social category lists, the Minister answered and I quote: "I think that this Government's policy on housing is about the best there has been with regard to any previous Governments, if one considers that 700 houses will be built within the next 18 months or two years." What on earth is Government talking about? They have been in power now for over 11 years and they have been making promises to the people of Gibraltar concerning the provision of either housing for rental or affordable housing, or both, in successive manifestos, and the Chief Minister himself in his many New Year messages has made promises on this very important matter which, apart from the Bishop Canilla flats, have not yet seen the light of day. Not only have they not yet handed over a single key to any of the various purchasers of the Waterport Terraces housing scheme, and this is causing great stress to many of them, but it

is becoming abundantly clear to many of them and to the people of Gibraltar, as a whole, that the GSD concept of affordable housing is that priority for obtaining a home is based not on the need of the purchaser but on the means of those buying these so called affordable homes. In other words, it is based on how much money you have and on whether you can afford 100 per cent of the price. This is just not helping those who are less well off. Not even the changes to the point system, proudly announced by the Government in 2005, has made things any better. The Minister claimed that the new procedure would prevent people on the waiting list being unfairly overtaken by others who had been less time on the list, but the truth is that now applicants with bad living conditions have less chance of getting accommodation until they have been a considerable length of time on the housing waiting list. A comment, Mr Speaker, that people keep on sharing with me is this: what is the use of having thousands and thousands of points when the real problem is that Government have just not provided adequate homes for our people in the many years that they have been in office? The GSD administration seems to think it can airbrush away its disastrous record on housing which has seen the waiting lists for Government accommodation triple in ten years since 1996, while in the same period the shortage of available housing caused prices to spiral to unprecedented levels. The problem of the shortage of housing that we have today is the result of over ten years of failure to act properly on the part of this Government and this is a fact that cannot be denied. When in November last year, they announced the construction of a new 700 flat housing estate for its Government rental stock, the Minister proudly stated and I quote: "This is a wonderful day for the Housing Ministry, for all those on lower incomes who cannot afford to buy even the affordable homes, for all those that have been waiting for years on the housing waiting lists and for all those involved in public housing administration who for decades have been doing the best they can administering an insufficient amount of housing stock." What an extraordinary statement to make. Let us analyse carefully what the Minister said. "This is a wonderful day for the Housing Ministry." Yes, but is it a wonderful day for quite a number of people who have had to

make enormous financial sacrifices in order to purchase an apartment in Waterport Terraces when they might have considered waiting in order to take advantage of renting one of the 700 flats which are being added to the Government housing stock? He also said: "This is a wonderful day for all those on lower incomes who cannot afford to buy even the affordable homes". This sounds very much to me like an admission that their so called affordable homes are not really affordable to a large majority of our people, and especially those on the housing waiting lists. He also said that it was a wonderful day for all those that have been waiting for years on the housing waiting lists. Yes, but who is to blame for this? Well, if anybody is to blame for the long wait, it is the GSD administration. It is also a wonderful day, Mr Speaker, he said, for all those involved in public housing administration that for decades have been doing their best administering an insufficient amount of housing stock. But yet again, we have to ask ourselves the question, whose fault is it that there has been an insufficient housing stock? It is the fault of the GSD administration. The Minister speaks of decades, in the plural, of insufficient Government stock. Surely, it would have been more accurate to have used the word decade in the singular, because it is precisely during the decade that they have been in power that the waiting lists for housing have been rising, and rising, during the whole of their first decade in office. Surely the important question for them which they should have considered when they came into power was what is the demand for Government housing as reflected in the housing waiting lists in 1996? They allowed the demand to rise without addressing the problem as they should have, thus creating very serious hardship for many of our people. Their policies were very badly mistaken and they only have themselves to blame. Today I hold the Government to account. They have indeed failed the people of Gibraltar in not addressing properly the vitally important social issue concerning the provision of adequate housing for our people. We know it, they know it, and the people of Gibraltar know it.

Let me finish on a very personal note. In February this year, I attended a seminar in Westminster organised by the CPA UK

Branch. The theme was: "Restoring Trust In The Political Process". Well, Mr Speaker, restoring trust in the political process, in my opinion, will only be achieved when politicians worldwide, and this includes us, are true to those universal standards of ethical behaviour that makes them servants and not masters of those who elected them and put them in the positions of responsibility that they hold. I believe our people are tired and fed up with the politics of constant recrimination, blame and confrontation. The perception should not exist that in order to succeed in politics one must have recourse to the use of "mala leche", to quote the Chief Minister's words to me in 2004 in this very chamber. This will certainly never be my style. I assure, Mr. Speaker, that when I hold Government to account, which is something that I must do when I consider it necessary, I will always try to do so with respect. I use as my starting premise, that they are acting in good faith, however mistaken I consider their policies to be.

I said at the beginning of my address that this was my last Budget speech within the four year term of this Parliament and so it is. But I certainly hope, that if my party will have me, and very specially if the people of Gibraltar will make it possible at the forthcoming General Election, that my next speech at Budget time, representing the GSLP, will be given from the Government side of the House and not this one.

HON DR B A LINARES:

Mr Speaker, I will be reporting to this Parliament on my Ministerial responsibilities for Education, Training, Civic and Consumer Affairs, 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 entirely budgeted for the forthcoming financial year.

EDUCATION

The 14-19 Curriculum

As I have previously explained to the House, the major curricular reforms planned in UK for this age group are closely monitored by our advisers in the Department of Education and Training locally. The main thrust of these reforms will be the introduction in the National Curriculum of 14 sets of Specialised Diplomas at three levels up to advanced level covering the occupational sectors of the economy. The first five Diplomas are scheduled to be made available in the academic year of 2008 and these are ICT, Health and Social Care, Engineering, Media Studies and the Built Environment. Another important feature in these curricular developments is to ensure a close collaboration between educational authorities and outside business and industrial entities. It is worth quoting, in this context, the recent statement made by the Education Secretary Alan Johnson to the Higher Education Funding Council in UK: "If every child is to reach his or her full potential, we need a rich curriculum which speaks to the talents and abilities of every child. This is what underpins our reforms at 14-19 of which the new diplomas are a crucial aspect. The oft-quoted statement that they are the most radical educational reforms happening anywhere in the world today isn't an exaggeration." As Members are aware, the task of successfully adopting and adapting, as we have to, the 14-19 Curriculum in our Secondary Schools and College is assigned to a working group made up of relevant school practitioners and the Department's advisory staff. Within the scope of these reforms, the working group is also considering moves towards co-educational initiatives.

School Responsibility Allowances

As I already announced last year as well and explained in answer to Questions in the House, in the UK the traditional graded management allowances have been replaced by what

are called "Teaching and Learning Responsibility Payments" (TLRs). I am very pleased to announce that after long and detailed discussions, a working model has been agreed upon between the NAS/UWT locally and the Department of Education and Training. This has now also obtained the approval of Government and an implementation phase is currently being worked out by the Department and the Union working closely with all the headteachers and staff. It is envisaged that the new structures will be in place in our schools as from the start of the next academic year.

Pay Award for Teachers

Members may be aware that the annual pay award for teachers in UK is caught up in a controversy as a result of the advice by the independent body in UK recommending a cap of 2 per cent pay rise for all public sector employees. The two main teachers' unions, the NAS/UWT and the NUT in their annual conferences recently have voted for pay strike ballots as they claim that 2 per cent is well below the inflation rate of 4.8 per cent. However, it appears that the School Teachers Pay Review Body may be given the go-ahead to review this recommendation. Members will realise that in the context of parity, to which both the Government and the local Union are committed, the outcome of all this will impact on our Government's pay settlement for our teachers.

Professional Development

This past financial year, the Advisory Service has also provided INSET (in-service training) sessions on:

- Self-Evaluation for Schools.
- "Leading from the Middle" in preparation for the new Teaching and Learning Responsibilities.
- ICT and New Technologies.

- Open-Source Software – an alternative to proprietary software for schools.
- The New Primary Framework for Literacy and Numeracy.
- Emotional Intelligence.
- Health Education INSET for headteachers. (delivered by the GHA.)

This year has also seen the establishment of links with Mr Adrian King, an expert in the field of Drugs Education. He has visited twice already and has provided INSET courses for schools, Social Services, the Youth Service and other professionals working with children. The Department of Education and Training is also planning to provide similar INSET sessions for teachers in the First School Sector next year. This initiative has been accomplished under the umbrella of the Government Drug Strategy and its steering committee, the Drugs Advisory Council, and every effort has been made to ensure that all agencies involved have access to Mr King's expertise.

Pupil-Teacher Ratios

The total complement of teachers and lecturers on a permanent and pensionable status in our schools is currently 335, as opposed to 288 when we came into office in 1996. The average teacher/pupil ratios in our schools are the envy of schools in UK and, indeed, other European countries. In First Schools the average ratio is 1 to 15.28, in Middle Schools the average is 1 to 18.81 and in Secondary Schools the average is 1 to 15.

Pre-School Education

We continue to run eight nurseries, as opposed to two when we came into office in 1996, catering for 315 children as opposed to 135 in 1996. There is a nursery attached to every First School, plus one in Varyl Begg and one in St. Martin's.

Higher Education

The fact that every year over 40 per cent of our annual intake gain access to higher education is proof of our success in preparing our pupils throughout their school career for public examinations. The statistics speak for themselves. In 2006, the GCSE pass rate (A* to C Grades) was 68 per cent and A/S level pass rate was 88 per cent, the AS level pass rate was 90 per cent and the A level pass rate was 97 per cent. The number of students in UK universities and colleges this academic year, as at the end of May, is over 500. Mr Speaker, as I have announced before in my Budget speech last year, tuition fees for students studying at UK Universities are now being administered by the UK's "Student Loan Company". EU students, including of course students from Gibraltar, have entered the same system. However, it is of the utmost importance to note one important difference between the systems. Whereas UK students need to commence repayments of their loans once they have finished the course and start earning in excess of £15,000, our own students are having their loans serviced by the Gibraltar Government and therefore we are not passing the financial burden on students. Mr Speaker, a substantial number of people are also taking advantage of our distance learning schemes and my Department has supported applications for courses both academic and vocational, as well as on-going professional training. Funding has been available for a wide range of courses such as interior design, music technology and health and safety.

Special Needs

In keeping with inclusive practices, our policy continues to be one of equal opportunities. All children should have access to an appropriate education that affords them the opportunity to achieve their personal potential. As far as possible, children with special education needs will continue to be educated in mainstream schools, alongside their peers, always bearing in mind what is realistic for each individual child and what is affordable. The Department makes specialized provision for

children with visual impairment. There are currently two children in mainstream schooling who have a severe visual impairment. One is blind and is a Braille user and the other is a print user, size 24, with limited vision. There is also a younger pupil, with a visual impairment, at St. Martin's School who has other learning needs. The services of the Educational Service for Hearing and Vision in Hull have been employed by the Department to provide all concerned with support and every term a peripatetic teacher from their service visits on a consultancy basis, so that the schools together with our own Special Needs Adviser, plan the programme for each student. Once a year the Mobility Officer, also from Hull, visits to support the work of our own Occupational Therapist assigned to these two students, to plan a Mobility Programme.

Information and Communications Technology

The special provision budgeted last year of £300,000 although not yet used in its entirety, has been allocated to the following: All schools have ICT suites but those that were not server fed have been modified to this enhanced method of networking. Spending in this area has included the buying and installation of the servers at a cost of £3,500 per server and the provision for ADSL connections, software and cabling which has ranged from £3,500 to £5,000 depending on the size of the network. This control of the network through a server improves the sharing of software and data, security and general communication and allows the teacher to have a far greater control of the network. Some control network software is currently being piloted to improve this further. Interactive Whiteboards have been received enthusiastically by the profession in all sectors. As their name suggests, they are designed to improve interaction and as teachers have become more adept at using them, the technology clearly achieves this. Twenty five were purchased in total, each at £3,000 including projector. Judging by the positive impact that they have had, it is envisaged that numbers will be increased. It is important to achieve this in phases because the technology they use is developing very quickly and newer

models with incorporated audio-visual projectors and sound are appearing on the market and, as in other areas, it is advisable to pilot these before arriving at a decision and also wait for all the teachers to be inducted in this new technology, often foreign to them.

Extra-Curricular Activities

As I have pointed out earlier, Mr Speaker, the trend today in good educational practice is to provide outreach programmes to create awareness in pupils of issues and opportunities in the wider community outside the ambit of the school. Indeed, universities in assessing applicants for entry, are increasingly looking for evidence of experience and commitment in these activities beyond the strict framework of the school curriculum. All our schools are, therefore, 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 I would like to highlight here the impressive effort made by our schools, staff and pupils, in raising funds for charity. During the current academic year the extraordinary total sum of £38,633 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. I do have to single out the record sum of £14,380 raised by the girls and teachers in Westside School. I am sure all of us will wish to express our appreciation to the children and the teachers in all our schools.

Educational Exchanges

The outreach thrust of our educational approach, which I have explained, Mr Speaker, must necessarily involve knowledge and understanding of other people's cultures and ways of life – close to us in the neighbouring regions of Spain, Portugal, Morocco, other European countries, and more particularly, of course, in the United Kingdom. Our schools' programmes include regular

trips to all these countries of a cultural, social and sporting nature and, of course, social and academic exchanges between our pupils and teachers and their counterparts in the Campo area. We often host visits from schools in La Linea, Los Barrios and other neighbouring towns including Ceuta, and in cooperation with the Tourist Board, offer them guided tours around the Rock. Some groups also arrange visits to Parliament House where the Clerk kindly explains to them the intricacies of our legislative procedures. I must express here my appreciation to the Clerk for that service to our Department. Similarly, our pupils and teachers are hosted by the Ayuntamientos of neighbouring towns and particularly popular is the environmental experience in the Parque de los Alcornocales and the hands-on projects in the archaeological school of Chiclana.

Mr Speaker, my friend and colleague, the Minister for Sports will be reporting on the very successful participation of our young people supported by our teachers in the Straits Games which has been hosted this year by us in Gibraltar. The overall aim of these annual events is to foster understanding, friendship and sportsmanship among our youth on both sides of the frontier and, indeed, from across the Straits in Morocco.

Mr Speaker, as part of our on-going commitment towards enriching the cultural experiences of our students, a group of senior students and teachers from both our Secondary Schools recently accepted an invitation from the Socio-Cultural Association Mar del Sur in cooperation with Blands to travel to Madrid in the company of Spanish students and their teachers. It is hoped that this trip will have also given our students the opportunity to establish links with other students and to sample a bit of culture and sport in this vibrant city of Madrid.

Personal and Social Education

The subjects of Citizenship and of Personal, Social and Health Education have always been implicit in schools' curricular programmes but now it is a statutory requirement of the National

Curriculum at secondary level. The syllabus comprises topics ranging from human rights, the origins and implications of the diverse national, regional, religious and ethnic identities and the need for mutual respect and understanding; the wider issues and challenges of global interdependence and responsibility, including sustainable development and Local Agenda 21. Schools were also asked to participate actively to mark World Environment Day on the 5th June organised by my friend and colleague the Minister for the Environment. The topic this year, as is probably known, is "Climate Change". The participating schools put on, brilliantly I think, their sketches, plays or songs and, more than anything else, demonstrated their real awareness of what climate change can mean for them as future generations and for the planet as a whole.

Health and Safety Policy

A review of the Management of Health and Safety in our schools was carried out by The Royal Society for the Prevention of Accidents (RoSPA) in October 2006. This took place over a period of five days in which a cross section of schools from different sectors were examined. As a result of these visits, RoSPA completed an interim report which highlighted the following areas:

- The physical conditions and equipment at schools.
- The management of health and safety.
- The health and safety culture in the educational sector.

Because this was only an introductory visit, the Report does not refer to particular problems as such but rather to general traits that need attention and management. They advise that improvements in these areas could be addressed in a plan of action that could take anything from five to ten years. During the first year, the Department of Education and Training would be required to form a project team under the leadership of the Director of Education and Training, representatives from the NAS/UWT and headteachers supported by a Health and Safety

consultant from RoSPA who would assist with regular two to three day visits over the period of time.

Infrastructural Works

The following Minor Works were carried out during 2006/2007: Roofs have been repaired in St Martin's School and the College in order to stop water ingress. The Bleak House roof had the slate tiles replaced as the existing roof was partially blown away during a storm. The total cost of these works amounted to £203,595. The internal painting of Bayside School was completed during this financial year. The total cost of this work was £292,380. The external painting of the school was also completed. The sum of £156,433 has been paid to date. An area comprising an old store and bicycle shed was converted into an Alternative Learning Centre, the meaning of which and the purpose of which, I have had ample opportunities to explain in this House. The cost of this refurbishment was £125,458. The refurbishment works to two laboratories were completed. Works later commenced on a further two laboratories which have now also been completed. The amount paid during the last financial year was £246,837 although the total cost will come up to £364,660. New nurseries together with suitable play areas and equipment for nursery children have been constructed in Governor's Meadow School, St Mary's School and St Joseph's First School. The total cost of these works amounted to £53,567. The St Paul's First School playground was resurfaced. The cost was £19,947. Asbestos was found in certain areas of St Bernard's First School. The cost of encapsulating the asbestos, as recommended, was £51,250. Some adaptations were carried out around St Anne's Middle School to accommodate a wheelchair bound pupil. Final cost was £9,271.

Projected Works for the current year

- St Anne's School – Repairs to the roof and affected areas to address the problem of the water ingress.

- Bayside School – Completion of refurbishment works of the two remaining laboratories.
- Westside School – Removal of carpets which are believed to be the source of fleas and installation of lino in the Maths area and the Humanities area which is part of the on-going programme commenced during the last financial year.
- Bayside School – Installation of lift to cater for the disabled (a wheelchair-bound pupil is due to arrive in September 2008).
- Notre Dame First School – Resurfacing of playground.
- Gibraltar College – Repairs to the roof and ceiling masonry.
- Repair works to address rain water ingress in St Paul's School and St Joseph's First and Middle Schools and Westside School.
- All schools – Start of programme to replace current refuse containers with the recommended environmentally-friendly ones.
- Bleak House – Replace rotten floorboards and beams.
- St Paul's First School – Replace rotten beams and install lino in the dining area.

New School Buildings

In order to enhance schooling provision over the next two or three years, Government is planning to embark on two major new school building projects. The first of these, scheduled for the next two years, is the refurbishment of the old St Bernard's Hospital to house the two schools currently in that catchment area, as the Chief Minister has explained earlier - St Bernard's First School and Nursery as well as Sacred Heart Middle School. This project is part of the planned regeneration of the Old Town and will ensure that the original Colonial Hospital building is also, at the same time, restored to its former splendour. The second project consists of the building of a First and Middle School in the Coaling Island area. These newly-built

premises will house St Mary's First School, currently in Town Range, as well as further First and Middle School provision to cater for the demand for school places as an overflow from other over subscribed schools in other areas for example, Bishop Fitzgerald and Governor's Meadow Schools.

Departmental Staff

Following the appointment of the new Educational Advisers, which I announced in my Budget Speech last year, after the appointment of Mr Ernest Gomez as Director of Education and Training, I want to announce the imminent retirement of the Principal Educational Psychologist, Mr Alfred Trinidad. Freddie has been for the past 22 years, single-handed, a pillar of support to teachers, pupils and parents demonstrating an extraordinary degree of understanding and empathy in face of the ever increasing pressures within our society today. I am sure Members will join me in thanking him for his valued service and wishing him a very happy retirement. His post has now been advertised by the Human Resources Department for applications and selection. In fact, interviews are now carrying on. Another important appointment this past year in the Department's advisory staff has been that of a specialist Assistant Education Adviser as an enhancement to the previous post of Attendance Welfare Officer. This is Mr Sean Sullivan, highly experienced in special needs education and, incidentally, in TV newscasting, who is now forging stronger links with the Social Services Agency through which issues surrounding the welfare of the most vulnerable pupils can be addressed more efficiently. I am also very pleased to announce that Mr Joey Britto, our Senior Educational Adviser, has recently obtained a Doctorate in Education from the University of Sheffield. A standing joke in the Department is that there are more doctors in the Education Department now than in the Health Centre. Joey's thesis is particularly relevant in the light of the changes to be made to the 14-19 Curriculum. I am sure we all want to congratulate Joey for his efforts and academic success.

TRAINING

Mr Speaker, the expansion and development of training programmes on which I will now be reporting have been impressive and, indeed, very significant in the light of the importance being given in UK to vocational education as an integral part of a broad-based educational curriculum.

Vocational Training Scheme

As at 1st April 2007 there were 188 Trainees, 91 male and 97 female, enrolled in the Vocational Training Scheme (VTS) which, as Members will know, is a scheme involving placement with employers in Gibraltar, and actually 62 of these trainees from the Scheme were able to secure permanent employment mostly with the firms where their training took place. Many of the VTS Trainees benefited from attendance at classes in numeracy and literacy by following a syllabus set by Oxford, Cambridge and RSA Board (OCR). An additional option of undergoing training in Information Technology was also offered at Bleak House Training Institute.

Following discussions with the TGWU's District Officer and the District Committee Member with responsibility for Youth Affairs, Government enhanced Trainees' Allowances with effect from September 2006 ranging from increases of 73 per cent to 97 per cent. These increased allowances have also been applied to apprentices following courses at the Gibraltar Construction Training Centre and Our Lady of Europa Training Centre. The Government has also agreed with the TGWU to give preference for employment in Buildings and Works and other Government industrial departments to trainees who have gone through National Vocational Qualifications (NVQ's) Levels 2 and 3 courses in the training centres.

Gibraltar Construction Training Centre

A total of 23 new apprentices joined intake number 13 of the Gibraltar Construction Training Centre, which commenced in October 2006. The overall number of trainees at the Construction Training Centre as at 1st April 2007 stood at 28, and training activities continue to be offered in the traditional construction trades leading to the attainment of qualified craftsmen status through NVQ Levels 2 and 3. The NVQ's in the various construction trades are accredited by the UK's Joint Awarding Body known as the City & Guilds London Institute and the Construction Industry Training Board. Similarly, NVQ's have now been opened up to workers in Buildings and Works, as the Minister for Housing announced earlier.

During this last year the following qualifications have been achieved:

Wood Occupations: Three NVQ's at Level 2
Painting and Decorating: One IVQ at Level 1
Wall and Floor Tiling: One NVQ at Level 2
Plastering: Two IVQ's at Level 1
Bricklaying: One IVQ at Level 1 and One NVQ at Level 3.

I am pleased to state that last April the External Verifier from City and Guilds has given formal approval to the Construction Training Centre, not only to continue the delivery of NVQ's at Levels 1 and 2, but also the introduction of the more advanced City and Guilds Awards. Similarly, the External Verifier from the Engineering and Marine Training Authority (EMTA) last April inspected the Engineering Trades Training Centre at Cammell Laird and approved the delivery of NVQ awards for the next two years.

Engineering Trades Training Scheme

In September 2006, a total of 15 new apprentices joined the jointly funded Cammell Laird/Government of Gibraltar

Engineering Trades Training Scheme. These young men have also been following NVQ courses leading to qualified craftsmen status in the following trades: Electrical Engineering; Mechanical Engineering; Welding and Fabrication.

Engineering NVQ's achieved during this last year are as follows:

Electrical Engineering Level 2: three passes
Electrical Engineering Level 3: three passes
Mechanical Engineering Level 2: five passes
Mechanical Engineering Level 3: two passes
Fabrication and Welding Level 2: eight passes
Fabrication and Welding Level 3: one pass

A total of eight trainees completing their NVQ's in the Cammell Laird Training Centre have obtained jobs with Cammell Laird and with the Electricity Authority.

Bleak House

Bleak House is now in its ninth year of operation and has become a flourishing and well resourced training facility, particularly in Information Technology, run by the Department of Education and Training. During this time, a wide range of training courses have been delivered which cover many aspects of professional development for all sectors of Gibraltar's workforce both in the private and public sectors. Private companies make use of the facilities to carry out their own training programmes whilst a number of training providers run their courses from here.

There have been Civil Service IT courses in Microsoft Word and Excel. The Procurement Department delivered courses on purchasing techniques. Government Departments carry out specialised training specific to their function such as confined spaces training, signage for roadworks, audit courses, specialised health and safety training, basic health and safety training and training in emergency response plan by the

Environmental Agency. The Department of Education and Training INSETs in leadership and management also take place here. The Social Services Agency use Bleak House for the training of Care Workers. The Royal Gibraltar Police, Gibraltar Tourist Board and AquaGib also make use of the facilities. Local private sector companies make use of the facilities at Bleak House for their in-house staff training programmes. The Gibraltar Society of Chartered and Certified Accountancy Bodies offers Certificate for Accounting Technicians (CAT) Courses at different levels. These courses are run at Bleak House.

Another important sphere of activity in Bleak House is the delivery of public examinations. Bleak House is an examination centre for the Open University, the Chartered Insurance Institute, the Institute of Chartered Secretaries and Administrators, OCR and AQA. The latter are the GCSE Boards. In addition, it hosts examinations regularly for local students undergoing distance learning courses. Re-sit examinations are also held for Gibraltar students on behalf of various UK universities during the summer period, which reduces the financial burden for them and their families, since they do not have to travel to the UK since Bleak House has been acknowledged and certified as an examination centre.

Maritime Sector

I am pleased to inform the House that our Maritime Student undergoing training to obtain an Officer of the Watch certificate is progressing well, and already half way through his second year of studies. In partnership with local Shipping Companies it is envisaged that a further two scholarships will be offered this year to enable young people to undergo training leading towards Officer of the Watch qualification.

Accountancy Training

Accountancy Training continues. Once again, the Department of Education and Training has subsidised students undertaking the Certified Accountancy Examinations known as ACCA and, likewise, also subsidised students following CAT Courses.

Management Courses

Opportunities have once again been offered to private sector employees to follow Management Courses delivered by Durham University's Business School and accredited by the Chartered Management Institute. I am pleased to report that a total of 22 Executive Diplomas in Management as well as 15 Executive Masters in Enterprise Management have been achieved by private sector employees this past financial year. Alongside the private sector, the public sector has also undergone Management Courses and have attained 47 Diplomas in Management, 3 Executive Diplomas in Management and 12 Executive Masters in Enterprise Management. At present there are over 50 Civil Servants participating in Diploma in Management Courses run by Durham University and accredited by the Chartered Management Institute. I am pleased to announce that our students both in the public and private sectors who have already obtained their Masters this year will be receiving these awards in a special ceremony to be held in Durham Cathedral precisely this coming Friday.

CIVIC AFFAIRS

Mr Speaker, the Government has assigned to me Ministerial responsibility for Civic Affairs. The Government's commitment to transparency and accountability is no more clearly demonstrated than in the creation of three major organisations, which although operationally independent of Government control, are Government funded and attended to within my Ministerial portfolio.

They are:

- The Citizens Advice Bureau;
- The Department of Consumer Affairs.
- The Ombudsman;

The implementation of the Data Protection Act by the Regulatory Authority also comes under my Ministerial attention and I am pleased that the Equal Opportunities Act which I introduced originally to the House now also covers legislation against discrimination on the grounds of age and disability.

I also liaise with the Royal Commonwealth Society, which is an independent association, and I am very pleased to say that a young graduate from Gibraltar having attended a Commonwealth Society seminar in UK, Mr Giordano Durante, has been appointed as a member of the international panel who annually judge the essay competitions which the Society runs throughout all parts of the Commonwealth.

The Ombudsman

The Ombudsman continues to deliver a robust service to our citizens and I am pleased to state that I continue to offer my assistance whenever this is required. In his 2006 report, the Ombudsman states that Government departments continue to improve their performance and consequently yet again this year the Ombudsman has reported a fall in complaints from 412 in 2005 to 367 in 2006. Particularly welcome is the fall in complaints against the Housing Department, to which the Minister for Housing has referred, from 130 in 2005 to 94 in 2006, and the Buildings and Works Department from 49 in 2005 to only 37 in 2006. More particularly pleasing to me is that the lowest number of complaints has been against the Department of Education and Training with only three complaints, none of which have been sustained. I am very happy to join with the Ombudsman in congratulating all Heads of Departments and

their staff for this very welcome development. I wish, particularly, to congratulate my colleagues and friends, Mr Ernest Britto, Minister for Health, Mr Clive Beltran, Minister for Housing and Mrs Yvette Del Agua, Minister for Social Affairs, for the very positive comments made by the Ombudsman in his 2006 Annual Report as a result of the notable reductions of the number of complaints during that year against their respective departments.

Citizens Advice Bureau

The Gibraltar Citizens Advice Bureau (GCAB) has been a key part of the local community since its inception in April 2003. The whole ethos of the service is about helping people to exercise their rights and obtain fair treatment under the law and thereby improve their lives. The Bureau is committed to promote equality and diversity and prevent prejudice and discrimination, ensuring equal access to advice and providing good relations between all sectors of the community. The GCAB offers the following services:

- Legal Clinics
- Overseas Students – Information and advice to students which help them in the initial stages of their entry into the new world of university and in a new country.
- Money Advice – Working in partnership with local banks, money lending companies and utility companies for example, Electricity Board, advisors work with a financial statement widely used in UK which is called NACAB and validated by the British Bankers Association.
- Discrimination Advice – The Government designated GCAB as the body for the promotion of the equal opportunities legislation which we have introduced through the House.
- Gibraltar is a full member of Citizens Advice International (CAI). CAI is a membership organisation formed to promote throughout the world the provision of independent non-governmental bodies of free, impartial

and confidential advice. It forms a network with the participation of many countries including England, Scotland, Wales, Northern Ireland, Poland, Romania, Czech Republic, Lithuania and New Zealand. In fact, today, the GCAB is hosting a conference of some of these countries who have come to Gibraltar this year for their annual council meeting.

Consumer Affairs

Although the Consumer Affairs Department can trace its origins to 1994, it is a fact that over recent years it has grown from strength to strength both in effectiveness, as a consumer protection agency and in its technical know-how and professional expertise. The field of consumer protection is becoming today increasingly complex and expansive following on European Union Directives. To this end, the Consumer Protection Cooperation (CPC) legislation will be brought to the House shortly. This EU regulation will create a network of public and other enforcement bodies across the EU responsible for the enforcement of consumer protection legislation in Member States.

Data Protection Act

The Data Protection Act 2004 (DPA) requires persons and organisations who keep personal data, data controllers, about living people to ensure that the information is collected, kept and used in compliance with the safeguards set out in the Act. The DPA was commenced in three main stages starting in April 2006 and was fully implemented by September 2006. The second stage, which has arguably had the greatest impact on local businesses, is that of the data protection register. Under the DPA all data controllers must register with the Data Protection Commissioner and appear on a public register which is held and maintained by his office. The purpose of the register is for data subjects to know what personal data is being processed by data

controllers about them. To date there have been 206 registrations and this is expected to increase.

In conclusion, Mr Speaker, it is of great satisfaction to me to be engaged Ministerially in areas which in one way or another are related to human aspirations and human rights: education for life, preparation for work, protection of people as consumers, workers and citizens, et cetera. I know that the staff in all my departments who work with me are motivated by this same spirit of service to citizens, to people and I want to thank them all for their continued support to me personally as well and for their commitment and efforts to serve our community in these important areas.

Mr Speaker, if you will allow me, rather pedantically I suppose, I always like to end my Budget speeches with a relevant quotation

As we know and as the Hon C A Bruzon actually highlighted the fact that all of us in this Parliament believe that we are here as servants of the people, so perhaps it may be inspiring to us to quote from the beautiful "Servant Poems", as they are called, from the prophet Isaiah. The poems, of course, were written in ancient Hebrew, but I will be actually quoting them in English. It is lovely actually.

"I, Yahweh, have called you to serve the cause of right;
I have appointed you as a covenant of the people and
light of the
Nations.....
Pass through the gates.....Make a way for the people.
This Yahweh proclaims
To the ends of the earth and to the ends of time"

(Isaiah. 42;5-6, 62;10-11)

And with these holy thoughts Mr Speaker, I commend to the House Head 1-A, Head 1-B, Head 101, subheads 7 & 8, and

Head 103, subhead 17 of the Estimates of Expenditure 2007/2008. Thank you.

HON F VINET:

Mr Speaker, my areas of responsibility can be summarised as follows:

1. Heritage;
2. Culture;
3. Youth;
4. Sport and Leisure;
5. Public Service Broadcasting;
6. Gibraltar Government Lottery;
7. Electricity Authority;
8. AquaGib;
9. Gibtelecom.

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

Heritage

The past year has been an exciting one for our heritage. In September, an international team led by the Gibraltar Museum published the results of recent work at Gorham's Cave demonstrating that Gibraltar was the final resting place of the last Neanderthals. Not since the unearthing of the Neanderthal skull in 1848 has there been such an important scientific discovery in Gibraltar. The results were published in the prestigious journal "Nature" and there was unprecedented coverage for Gibraltar's heritage worldwide, with over 300 reports and articles having appeared in over 30 countries. The promotion of our heritage internationally is something that we aim to develop even further in the current year, using the platform that these results have provided. We will begin to see a range of documentary programmes, articles and other features appearing this year in the most prestigious international media,

covering not just the Neanderthal story but other aspects of our history. These will serve to highlight Gibraltar and increase its profile at an international level. It will help attract further interest, in parallel with the publication of further findings.

I am pleased to report that the Tower of Homage of the Moorish Castle is now re-opened. The research, conservation and restoration work that has been done has brought to life this flagship among our ancient monuments. There is still more research to be done in the Tower but the next major step forward will come with the relocation of the prison. This will permit the start of a programme, using the model employed in the Tower, that will open up a hugely important heritage asset and a significant attraction for visitors. In the immediate future, further research will be conducted in the area of the Castle's Gatehouse.

One of the objectives for the current year will be the consolidation of all the material from the medieval sites that have been worked on in the last few years so that this important part of our history is known and accessible. I am also discussing with the Gibraltar Museum ways of developing publications and multimedia kits that tell the story of Gibraltar at all levels. We are conscious that, despite many excellent books on our history, there is no up-to-date complete history and this is a major necessary task that we shall be initiating during the current year.

Part of this drive to promote our heritage internationally will involve the development of programmes in Gibraltar with major world institutions. The Gibraltar Museum expects to be managing the site of Parson's Lodge shortly. The aim is to make Parson's Lodge a field centre and an important heritage visitor attraction. I am pleased to announce that we have already reached agreement for the establishment of the University of Cambridge's first international summer field school in archaeology here next summer and Parson's Lodge will be a major asset to be used in support of this venture. I cannot emphasize enough the prestige that this school will have and

how important it has been for us to secure its location here in Gibraltar.

A tool in the promotion of our heritage for some years now has been the annual Calpe Conference. This year's conference will be held between the 27th and 30th September and we have, once again, secured an impressive panel of world-renowned speakers. The programme is already posted on the Gibraltar Museum's web site, and the theme is "People in the Mediterranean – a history of interaction". It will help to promote another heritage link that we are keen to pursue, that of Gibraltar as part of the wider Mediterranean community. In this regard I am also pleased to announce our participation, through the Gibraltar Museum, in an EU project led by the Sicilian Region in Italy. It is a project on the Mediterranean Sea through history and includes an itinerant exhibition that will travel across the Mediterranean, including Athens, Crete, Venice, Genoa and in February 2008 in Gibraltar. It is clear from this profile that Gibraltar is within the network of key sites of Mediterranean maritime history.

Returning to the promotional aspect of our heritage, that I have chosen to emphasize this year, the Heritage Magazine will continue to be published and distributed free of charge and this year we shall be funding at least two heritage-related books, details of which will be released in due course. Work is also very advanced on what I revealed last year would be the first Annual Report of the Heritage Division and we will soon be able to enjoy this important document that will fully inform the public of the activities of this part of my Ministry.

We have been building on our heritage research and conservation programme for some years now, and the time has come to focus also on making it better known to the local and international community and to develop it as a major area within the tourism promotion sector. That will be a major focus for the coming year.

Finally, Mr Speaker, I necessarily and proudly have to make mention of the magnificent and unprecedented work on the conservation and exposing of our City Walls and Defences. As Parliament knows, Government has worked towards opening up an important stretch of 18th Century galleries and World War II tunnels. This work will continue and will extend in future years to include the Northern Defences. The project will, along with the Castle, provide a series of heritage attractions of benefit to the local community and to the tourism sector. Together they will represent seven centuries of fortification.

The work at Orange Bastion and King's Bastion has been impressive and spectacular, especially after so many years of abandonment and neglect by previous administrations. There are other exciting projects on the way. The Calpe Married Quarters will be converted into housing, but retaining and restoring the façade. The Retrenchment Block will conserve its casing but its rooms will be made available for use by clubs and societies. All these are examples of a determination to conserve, to beautify, to safeguard historic areas, but also to create or increase their interaction with people. This is how best to bring our heritage to life.

Culture

Mr Speaker, I now turn to Culture. The Ministry of Culture continues to support and encourage those dedicated to the development of quality cultural activities in our community. We will continue to invest substantially in premises and cultural grants, as well as logistical and advisory support, once again ensuring a commitment to culture that has helped this Government deliver a greater interest in and frequency of cultural events. A particular success story this year has been the Spring Festival, which proved to be the most diverse and spectacular to date and included a higher number of events specifically devised for the Festival. The programme included classical, jazz, rock band concerts, drama, dance shows, the Museum open day, exhibitions and of course the popular Spring

Festival Art Competition. Innovations this year included a Short Story Competition, a season of Arthouse and Independent Cinema and, as its final event, a multi-cultural Street Party and Food Festival, something never done before and which has received widespread acclaim across our multi-cultural society. The general public will, I am sure, be happy to learn that this will now be an annual event.

As far as venues are concerned, the Ince's Hall Theatre has been virtually fully booked during the last 12 months. Those members of the public who have been to the various productions there, will have experienced the extensive refurbishment works carried out, which this year have also seen the installation of new light and sound equipment. The refurbishment programme will continue, and I am happy to announce that during the course of this year we shall be making available at the Ince's Hall audio equipment for the benefit of those with hearing impediments, allowing for their better enjoyment of drama productions staged there.

If I can now focus on two other venues managed by the Ministry of Culture. The Central Hall, used on a regular basis, has very recently been completely renovated, from lighting, painting and toilet facilities to the completely upgraded and specially varnished floor in the main hall that the dancing fraternity have particularly welcomed. I am pleased to say that access for the disabled has also been provided. The investment has exceeded £50,000 and refurbishment works to other areas will continue, including the provision of air conditioning in the main hall.

The Casemates Exhibition Galleries are proving to be a very popular venue. The Casemates Vaults have been almost fully booked throughout the year hosting a wide variety of exhibitions. A fifth vault is being refurbished to better accommodate the expected increase in entries for this year's International Art Exhibition, details of which, as promised last year, are being announced through the international media.

The Alameda Open Air Theatre, although not under the Ministry's control, also received financial backing to the tune of approximately £20,000 which went towards the improvement to the light and sound system.

The Ministry of Culture continues to be responsible for the financial aspects of the Retreat Centre, another of the important assets that are extensively used for different social and cultural activities by a large number of groups and individuals.

As far as the John Mackintosh Hall is concerned, numbers continue to be very encouraging. There were 1,131 bookings in 2006, with almost 300 different organisations having used the Hall in the last financial year for performances, meetings and exhibitions. The Library now has four computers available for use by the public, all with ADSL internet connections, while the expansion of the book collections and development of the European Documentation Centre will continue. Additional lighting and equipment is being sourced for the Theatre and the Cafeteria has been extensively refurbished, with the licence to run it shortly going out to tender.

Mr Speaker, the Ministry of Culture has delivered this year an unprecedented amount of quality events for all age groups and for all tastes. From the New Year Celebrations at Casemates, the extensive musical entertainment, including concerts by major local and international acts; the many dance productions and workshops, in particular the visit financed by the Ministry of Wayne Sleep, the drama and other theatrical productions; the Spring Festival with new aspects of culture and art being provided and ending with the Street Party and most recently the Miss Gibraltar Pageant.

Government took over the organisation of the popular Summer Nights and a full programme is currently being finalised for this summer's performances and activities, which will be held every Tuesday and Thursday at Casemates Square, commencing on 10th July and running over six weeks.

We are now finalising arrangements for the Fair, the National Week celebrations, the International Art Competition and exhibition and the Drama Festival. Details of these will be released in due course. Building upon the success of the Spring Festival, we are also very hopeful of announcing a new Autumn Festival of Art and Culture.

I take this opportunity Mr Speaker to thank all those groups, associations and individuals who give of their time in delivering cultural events for the enjoyment of our community. I would urge everyone to continue to make use of the venues and other facilities on offer.

Youth

Mr Speaker, I now turn to the Youth Service. Proper resources will continue to be dedicated to training, in order to improve youth work delivery and ensure that accredited Youth Workers provide programmes that encourage the physical, mental and spiritual development of young people. Workshops on sexual health, alcohol, child protection, health and safety, first aid and knowing young people are delivered by full time staff to new trainees and part time workers, and we engage the services of an experienced educator in Drugs Education and Awareness from the United Kingdom in conjunction with the Education Department and Social Services.

Parallel to these initiatives the Youth Service continues to develop opportunities for young people that are educational as well as enjoyable. These have included residential opportunities that are used to tackle different projects including conservation, photography or fashion. Using a variety of outdoor activities such as trekking, abseiling, horse riding, cycling and expeditions, young people are encouraged to enjoy adventurous activities with the right supervision and expertise. Visits to local places of interest such as the Botanical Gardens, Lower St Michael's Cave or the Nature Reserve were arranged to give young people an idea of the many options available during their

free time. In addition, there were visits to leisure facilities abroad; an arts and crafts project at Montagu Bastion for children; a stay and play scheme that uses the Youth Service and runs during summer. Youth clubs continue links with members during summer via barbecues and day outings. The cavalcade was also supported with young people from the Youth Centre, rock bands, dance groups and enthusiasts constructing and participating in six floats. Also, a Forensic Fashion project was held using fashion and design as a manner of attracting more young people to Youth Service provision. The project proved to be a major success.

The Youth Service continues to be actively involved in the Cheshire Home Project and this was the case particularly this last year, which included the first part of the Interreg Programme promoting understanding and friendship between Gibraltar and Morocco via culture, arts and crafts and traditional folklore. A group of over 20 young people accompanied by adult leaders visited the Cheshire Home in Tangier and established the beginning of this programme.

Pupils from both Comprehensive schools were also involved in personal and development programmes carried out by the Youth Service in partnership with the schools. For example, an innovative and very interesting "Life Choice Programme" that considers issues of health and responsibility for child rearing was undertaken and will continue this year. These links with the schools have been successful and as a result are being expanded.

Local initiatives, such as the ESG's Clean-up Gibraltar Campaign, were participated in and other projects were organised, including healthy eating, arts and culture and marine life conservation, some of them in partnership with local groups in order to encourage interaction and enhance learning capabilities. Properly supervised smoke and alcohol free discos are also held regularly at the Youth Centre for young people as part of projects being undertaken by the Youth Service and approved partner groups. Such projects will continue and

indeed, wherever necessary, expanded in order to meet the needs and interests of the young people.

A series of schemes will also be worked on, as in recent years, including working with the Sports Development Unit and other groups involved with young people, as well as contributing to the organisation and running of the Youth Pavilion at the Fair.

The Duke of Edinburgh's Award gets support in the delivery of its programme, while Government continues to assist the Guides Association and the Scouts with funding to help with training and other projects, underlying Government's support to those groups and others willing to support the young leaders in an accredited manner. For these purposes, increased funding has been provided for youth activities and youth grants.

The Youth Service also contributes to the Drugs Advisory Council, the Royal Gibraltar Police Community Consultative Group and works closely with schools, Social Services and other agencies that deal with the welfare and personal development of young people. The service will continue with its efforts to establish greater inter-agency cooperation with schools and local community groups.

Mr Speaker, refurbishment works were carried out in all the facilities. Also, new sound and light equipment was installed at the Youth Centre and Lolo's Hall; the refurbishment of the Guides' premises at Alameda House was completed; the Students Association premises were enlarged and completely refurbished, together with the material support to the Rock on The Rock Club to refurbish the young bands premises. Increased funding is again being provided this year for such improvement works to continue.

Government believes that our Youth are now better catered for than ever before, but we feel it is important to listen to the views and concerns of young people and that is why late last year we set up a Youth Advisory Council, to advise Government on all aspects of Youth Work delivery, including training, financial

assistance, links with peer groups abroad and generally young people's welfare. Members of the Council include representatives from Bayside and Westside Schools, the Gibraltar College, Guides, Scouts, Duke of Edinburgh's Award and the National Youth Council, as well as three young people in a personal capacity. The Gibraltar Youth Service will continue to deliver projects and programmes that deliver what can be described as informal education opportunities for young people and these will mirror their own preferences as equal and respected partners. It is evident, Mr Speaker, that a lot of good work with and for young people is being carried out and I therefore take this opportunity to thank all those involved, especially the many volunteers, for their dedication, commitment and work. Their efforts will continue to be recognised and supported.

Sport and Leisure

If I can now turn to sport and leisure, Mr Speaker, during the 2006/2007 financial year, the Gibraltar Sports and Leisure Authority continued to provide and manage:

- Sports facilities, including the community use of schools scheme.
- Technical support, assistance and advice to the schools and sports associations.
- Training, support and sports projects, through the Sports Development Unit.
- Financial assistance, through the Gibraltar Sports Advisory Council.
- Facilities for non-sports events
- The promotion of health and fitness generally

The major works at the Bayside Sports Centre have been completed, representing the start of a new era for sport and leisure in Gibraltar. Most of the facilities, including the climbing wall, the tennis and paddle tennis courts, the fitness trail, the boathouse and water-sports facilities and the new five-a-side

football synthetic turf pitch are now being used by the community and their popularity and frequency of use is increasing on a daily basis. The multi-sports games area is currently being used as a temporary replacement for the Sandpits tennis courts, whilst these are re-provided and improved as part of the car-park project on that site. The golf training area, a fitness gymnasium, and the archery range will come into full use during the next few weeks. I take this opportunity, Mr Speaker, to invite the whole of Gibraltar to witness for themselves these state-of-the-art, user-friendly facilities which, as I have already said on previous occasions, are of a size and quality that previously seemed an impossibility in Gibraltar. Impossible, that is, until the GSD Government increased investment in sport by 260 per cent.

I ought to add, Mr Speaker, although I could have done so while talking about Culture, that the multi-sports games area, situated between the Tercentenary Sports Hall and the hockey pitch, which was specifically designed to double-up as a concert venue with a capacity of up to 3,000 has been very successfully used for non-sports events, including the recent Miss Gibraltar Show, and other such events are being planned for the future.

The Authority provides support and advice to the schools and associations in the provision of facilities and equipment and in organising events such as the two international darts tournaments, World Grand Prix final of the international athletics mountain racing and the hockey Ladies' European 'B' group Club Championships, among others. Three international sports federations, the European Basketball, Hockey and Netball Associations have in the past few months chosen Gibraltar as the venue to stage their Committee meetings. This demonstrates, I feel, the standing that Gibraltar has now achieved at an international sports level and of course the Ministry for Sport will continue to support such initiatives.

The Sports and Leisure Authority was also entrusted with the organisation of the Tenth Strait's Games. Over 1,500 participants, 300 coaches and delegates and thousands of

spectators and family members from Gibraltar and the other participating cities enjoyed entertaining Opening and Closing Ceremonies and well-organised sports events. Can I congratulate and thank all those, including and specially the hundreds of volunteers, who contributed towards the success of the Games.

The Summer Sports Programme for youngsters continued to expand last summer and now incorporates further activities, including leisure and educational. This really has been a success story, growing every year, and even more activities will be available this summer, thanks to the new sports facilities. Full details will be made available imminently through a detailed booklet to be widely circulated. Also positive and very popular, as I have seen for myself, have been the Physical Activity Sessions, including swimming, for the over-50s that are jointly organised with the Senior Citizens Association. They provide the young at heart with suitable sporting equipment, facilities and training in a safe and fun atmosphere. Complementing this further will be new equipment to enable Senior Citizens to exercise mainly their shoulder and arm joints which will soon be installed as part of the fitness trail.

A very successful Health and Fitness Awareness day was organised, in partnership with two private individuals. A large number of persons of all ages took part, the aim being to encourage an active lifestyle and to provide information regarding the facilities, resources and programmes available. Again I must thank everyone involved.

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, continues to increase in order to meet demand. Support has also been provided to sports associations in the organisation of accredited coaching qualifications in athletics, basketball, football, shooting, squash, badminton, volleyball, swimming, rowing, sailing, table-tennis, tennis, gymnastics, rhythmic gymnastics and climbing. 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 some level of accredited qualifications, which will assist in the development of sport in Gibraltar. The objectives remain, as I said last year, to achieve as much self-sufficiency as possible in the delivery of coaching and training.

Gibraltar sports will again participate this year in many official international competitions, including the 2007 Basketball, Sea Angling and Darts championships and the Island Games to be held in Rhodes, where a record number of participants will compete with Government providing the largest financial assistance ever. The Gibraltar Sports Advisory Council and its sub-committees have been meeting regularly. On the advice of the Council, financial assistance has been provided to sports associations through the three funds available. Last year Government provided £125,000 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. Our sportspersons will be glad to know that this year that amount increases to £130,000. A further £70,000 was provided by Government to finance Gibraltar's successful participation in the Strait Games and Commonwealth Games 2006 and towards the Island Games 2007. Again, our sportspersons will be pleased to learn that Government is this year increasing that amount from £70,000 to £150,000, mainly to meet the extra costs of hosting the Strait Games and the large participation in the Island Games. In other words, Government, on the advice of the Gibraltar Sports Advisory Council, will be increasing provision to enable our sports men and women to represent Gibraltar internationally from £195,000 to £280,000. I would remind hon Members that in 1996, the GSD Government inherited a grants budget of £49,000 from the previous administration, compared to the current £280,000. Hon Members can make of that what they will. In addition, the Sports Development Fund of £66,000 has enabled a large number of sports-specific coaching courses and other developmental projects to be held in Gibraltar. The Sports

Development Fund will increase to £86,000. This is completely separate and additional to the £280,000 I have previously mentioned. Last year, the I&D Improvements to Sports Facilities Fund of £100,000 allowed for specific support 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 volleyball and tennis/multi-sport areas. The same amount will be provided this year to continue the improvement of the many facilities available.

With the completion of the new facilities at the Bayside Sports Centre, the planned improvements to the Stadium's old sports hall will now be able to get under way. Works on painting et cetera have already commenced and we intend to complete that project with repairs to the flooring during this financial year. Substantial funding for sports facilities will again be provided, the main aim being to adequately resource the Authority and to complete the extension to sports facilities project at Bayside. For these purposes £450,000 is being provided in the Improvement and Development Fund. The Authority will receive an increased contribution of £1,742,000 to meet its expected running expenses.

Mr Speaker, £50,000 is also again being provided to refurbish vacant premises for allocation and use by associations and clubs, although this is not restricted to sports and youth societies but is available for premises in general. During 2006/2007 the main scheme which benefited from these funds were the Petanque facilities at Giralda Gardens. Last year I announced a project to provide rehearsal facilities for local bands and musicians in conjunction with the Rock on the Rock Club and the Gibraltar Youth Service. I am happy to report that the scope of this project is being enlarged considerably, with further details to be made public soon. The scheme to refurbish the Lathbury Barracks Retrenchment Block is already under way and will provide extra premises for allocation.

In partnership with the Social Services Department the new swimming pool suitable for the elderly and disabled and for teaching of non-swimmers has now been operating for a whole year. Exclusive use of this facility for the elderly and disabled was made available over the summer period, with shared use with the Amateur Swimming Association (GASA), educational establishments and the community during winter. The Sports and Leisure Authority also took over responsibility for the existing 25-metre pool that had until then been known as the GASA pool. A thorough review of its use, in partnership with GASA, was carried out and Government took the wise policy decision to make use of this pool available free of charge. As a result, each and every person wishing to use the pool no longer need to pay a fee to do so. Both swimming pools have been extensively and successfully used and the numbers of users, in comparison with past years has increased threefold. This has also meant that GASA has been able to continue their work in the promotion and development of swimming, without the financial pressure and responsibility they had been shouldering until recently. In other words, this is a move that has benefited everyone.

Funds were also provided to develop the facilities of the Victoria Stadium including the resurfacing of pitch number 2 with new generation synthetic turf. This area is now in complete use for junior football, schools and club and squad training. Leisure facilities also continue to receive a high level of support, and Gibraltar can very soon make use of a magnificent Leisure Centre at King's Bastion. The Authority will develop other recreational and leisure needs, including playgrounds and a paint-balling facility. With regards to playgrounds, a thorough review was carried out with a view to determining the refurbishment requirements to present facilities, but also the provision of new playgrounds in new locations. This extensive report is currently being considered by Government. In partnership with the Ministry for Social Services, the Royal Gibraltar Police and private sponsors the Hargraves play area was recently refurbished and is now in full use. The total cost of

the project was around £45,000 of which £30,000 was funded by the Sports and Leisure Authority.

Mr Speaker, Parliament will have recognised the notable advances that have been made locally in sport and leisure, and therefore in enhancing our quality of life, during the last 11 years of GSD Government. Those advances will continue. Government recognises and appreciates the work and commitment demonstrated by the many volunteers in the sports associations and clubs et cetera. Their help is invaluable and ensures that sport and recreation thrive and develop in Gibraltar, for our collective enjoyment.

Broadcasting

Mr Speaker, I now turn to my responsibilities for broadcasting and in particular the GBC. As recently announced, a wide-ranging review of broadcasting is to take place. The review will consider a broad range of issues, including premises and technical resources. The continuing support the Corporation enjoys throughout the community is evident through the ongoing involvement of the audience with the programme output. This is particularly so in the case of Radio Gibraltar programming, the GBC Open Day and a number of television productions, especially those of a news and current affairs nature.

Last year I made reference to the importance attached to obtaining commercial revenue, through the sale of commercial airtime and to the new arrangements that had been put in place in furtherance of this aim. I am delighted to inform Parliament that the arrangements continue to pay dividends. In the financial year ended 31 March 2007 an increase in sales of about eight per cent on the previous corresponding period was achieved. The forecast for the current year is at this stage encouraging. Mr Speaker, the Corporation has continued to ready itself for the eventual migration to digital broadcasting. As Members are aware, a couple of years ago digital programme

technology was very successfully introduced in Radio Gibraltar. The last 12 months saw the introduction of new video editing technology at GBC TV. The introduction of this technology required investment in both the new video editing facilities and in staff training. Initial results indicate that the introduction of this technology is also proving highly successful. Once the National Digital Policy is announced, the Corporation will be in a position to initiate corresponding test transmissions.

Government Lottery

Mr Speaker, we are this year celebrating the 60th Anniversary of the Gibraltar Government Lottery. The first draw was held in October 1947. The Government Lottery continues to be popular, principally among our older generation, and annual sales over the past few years have been sustained at over £4 million. The estimates show that net sales of lottery tickets during the year have continued at the previous year level of £4.4 million. However, more prizes have been paid out than in the previous year. The total face value of lottery tickets is £6.1 million and around 28 per cent of tickets are being returned unsold. This contributes to the short to medium-term volatility in the lottery account margins. In fact, the Lottery Account, as shown in the draft Estimates of Revenue and Expenditure reflects a small forecast outturn deficit for the year ended 31st March 2007 of £29,000. A number of changes were introduced last year in order to try and enhance sales. These included a change in the day of the draws from Mondays to Tuesdays to enable tickets to be sold over the weekend and throughout Monday. New lottery designs were introduced in July 2006 with full colour images depicting local themes. Further improvements to these designs have been made during the last few months. Although further measures to try and improve sales continue to be looked into, hon Members will note that the Government has taken a more conservative approach for the 2007/2008 account where the statistically calculated surplus of £0.5 million has not been carried to Consolidated Fund revenues. Any end-of-year surplus will be transferred during the following year thus

providing a measure of certainty in the amount to be included in the Estimates as available for transfer to the Consolidated Fund.

Gibraltar Electricity Authority

Mr Speaker, I now turn to the three Utilities, starting with the Gibraltar Electricity Authority.

During the last financial year the total units of energy generated by Waterport Power Station and purchased from OESCO reached an all time high of 151.42 million units, representing an increase of 3.2 per cent over the previous year. Units billed to consumers totalled 145.72 million, representing an increase of 3.1 per cent. The total amount billed was £15.87 million, also an increase of 3.1 per cent and the amount collected was £16.42 million, an increase of 8.1 per cent accounted for by a combination of the increase in units billed and the effects of the disconnection policy introduced during June 2006. The number of consumers stood at 16,029 at the end of March 2007, an increase of 161 and incidentally the first time we have surpassed the 16,000 mark. The total installed generating capacity is 42.8MW and the highest all time record peak was 30.2MW reached during the cold spell of February 2007.

In-house works to form a high voltage cable network for the Europa area were completed last year and the involvement of the Authority in all the numerous on-going Government and Commercial projects was and continues to be unremitting. During the coming year, the GEA will continue to modernise its resources with the acquisition of an additional hydraulic platform to improve its public lighting service. A comprehensive back-up to its computerised systems is in the process of being installed which will enable the Authority to overcome any potential failure of its IT installation. The upgrading of substations is on-going as is the replacement of corroded steel column lampposts by aluminium ones.

To conclude this section, I would like to say that the activities of the GEA are not limited to ensuring that a supply of electricity reaches every consumer throughout Gibraltar on a 24/7 basis. Its wide scope of responsibilities includes public lighting, traffic signals, providing the power and illuminations for popular festivities, the Christmas illuminations were fully renovated last year, for instance, and not least providing Government with electrical contracting works in official buildings and housing.

AquaGib

As far as AquaGib is concerned, Mr Speaker, during the last financial year a total of 1.27 million cubic metres of potable water were supplied. A total of 3.4 million cubic metres of seawater were pumped to the various seawater reservoirs, while 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. Following the industrial action in 2005 and the subsequent pay settlement, the company has implemented new and efficient ways of working. In early 2007 a disputes resolution agreement with the TGWU/ACTS was signed. It has been agreed by both sides that in the event of an industrial dispute AquaGib personnel will at all times undertake emergency work to ensure continuity of supplies of potable and salt water and the pumping of sewage, something that will no doubt be welcomed by customers.

Mr Speaker, I am pleased to inform Parliament that AquaGib has placed on order two new reverse osmosis units to replace the now aging distillers on the North Mole. These units are expected to enter service in the spring of 2008 producing water to EU quality standards. The total value of this project is £3.5 million. A major benefit of these units is that the overall energy consumption is significantly lower than that for the distillers and consequently their impact on the environment will be much reduced. Also due to be commissioned by the autumn of this year will be a new potable water storage and supply system to

serve the South District and new mains are being installed to take both potable and salt water down Europa Road from Lathbury Barracks to Brympton, which is an area not previously serviced by the AquaGib system. Works will be put in hand this year to install a pumping and supply system in the Upper Rock to supply consumers with AquaGib potable water replacing the now old Ministry of Defence system with the aim of overcoming some of the problems associated with that supply in the area. Finally, Mr Speaker, AquaGib has been very busy with the provision of water supplies to new developments and as a result consumers are at times faced with unavoidable interruptions to their own supply. I would like to thank AquaGib consumers for their understanding and patience in this regard.

Gibtelecom

Finally, I turn to Gibtelecom. As hon Members will be aware, towards the end of April Telekom Slovenije purchased Verizon Communication's 50 per cent shareholding in Gibtelecom. The Government were content to support this transaction. Telekom Slovenije are a progressive and innovative European telecommunications company and have indicated their commitment to continuing investment and employment in the local telecommunication industry. They are the main telecommunications provider in Slovenia, serving a population of two million people with fixed line and internet services, together with providing mobile telephony through its subsidiary, Mobitel. Telekom Slovenije have been providing advanced telecommunications services, such as 3G technologies and IP television, long before some of the biggest operators in Europe. Government believes Gibtelecom should benefit from Telekom Slovenije's experience of operating within the European market, and will assist in bringing new technological advances to the Gibraltar partnership. Already collaboration is under way to advance mobile service in Gibraltar, on which further announcements from Gibtelecom can be expected in the near future.

In 2006 the Company's turnover grew by some eight per cent to £28.5 million, and dividends of £2.9 million are shown as being received in 2006/2007 in the Government's Estimates. This comprises some of the undistributed earnings for 2005 of £550,000 and £2,350,000 in respect of Gibtelecom's financial year 2006. Since the merger of GNC and Gibtel five years ago, the Company has also invested over £15 million in enhancing Gibraltar's state-of-the-art fibre network infrastructure and its bandwidth capacity has increased some thirty-fold. During 2006 the Company continued to upgrade its internet system and communications links with the wider world, investing in additional bandwidth capacity to enable the Company to meet the requirements of the finance sector and e-gaming industry. New routes to and via Madrid and London are being established for Gibraltar to provide enhanced resilience, eliminating potential single points of failure. Gibraltar now boasts an internet broadband penetration rate per capita of nearly 20 per cent compared to the EU average of 16 per cent in 2006. Measured by households, the broadband penetration rate stands today at about 60 per cent.

One of the new pillars of the Company, to which I drew Parliament's attention last year, is a high-tech Network Operations Centre (NOC) operating round the clock every hour and every day. This Centre now combines the latest computerised monitoring and tracking technology, manned by multi-skilled staff. The NOC not only offers technical and engineering support to e-commerce and other businesses 24/7, but provides Gibtelecom's various call centre services. Another substantial investment by Gibtelecom is the construction of its new premises at John Mackintosh Square, adjacent to where the Company has some of its technical equipment in the Haven and City Hall. Last year saw the completion of the foundations and basement, and the construction of the main superstructure is now under way, with the Portuguese firm Casais winning the competitive tender for circa £2.5 million.

I am particularly pleased to report that the Company continues to operate an undergraduate sponsorship scheme, with students

being guaranteed holiday employment alongside bursaries to help them gain qualifications that would be of use in the local telecommunications industry. In addition, Gibtelecom also offers a year placement scheme to locally resident undergraduates. To date there have been 19 participants across both initiatives and three students have gone on to take up careers with Gibtelecom. The Government applauds Gibtelecom's plans to expand on this initiative in the autumn this year when, in partnership with the Department of Education and Training, it aims to re-introduce a new modernised and structured telecommunications apprenticeship scheme. The scheme will allow young people, who do not wish to go on to university, to attain a BTEC (Business and Technology Education Council) National Diploma and NVQ (National Vocational Qualification) level 2 and 3 in telecommunications-related topics over a four year period.

I come last, Mr Speaker, to the most significant development in telecommunications locally in several decades, Spain's recognition of Gibraltar's international direct dialling code "350" as part of the excellent Cordoba Agreement. This has facilitated normal international dialling when calling a Gibraltar number from Spain, allowed for mobile roaming agreements with Spanish operators and put an end to the telephone number constraints in Gibraltar.

Mr Speaker, that concludes the substantive part of my address, but I would like at this point to express my gratitude to all those ladies and gentlemen who make up the Ministry or who form part of the respective Government departments, Authorities and related bodies, as well as those who serve in the pertinent advisory committees and Boards. My sincere thanks also go out to the management and workforce of AquaGib and Gibtelecom, the two commercial entities I chair. Thank you, Mr Speaker.

ADJOURNMENT:

The Hon the Chief Minister moved the adjournment of the House to Wednesday 27th June 2007 at 11.00 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 8.05 p.m. on Tuesday 26th June 2007.

WEDNESDAY 27TH JUNE 2007

The House resumed at 11.05 a.m.

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 Ms M I Montegriffo
The Hon L A Randall

IN ATTENDANCE:

M L Farrell, Esq, RD - Clerk to the Parliament

CONDOLENCES**HON CHIEF MINISTER:**

Mr Speaker, I think I speak for the whole House when I rise to say that we should take note of the life and death of Isaac Abecasis over the weekend. Hon Members may have heard that Isaac Abecasis died on Saturday of last week and was interred, I think, on Sunday. Mr Abecasis was, of course, a Member of this House and a long-serving one, between 1969 and 1984. He, indeed, served as a Minister in the AACR Governments throughout that period. Before that, he had been a prominent Trade Unionist and served both as Chairman of the Transport and General Workers Union and as Chairman of the Gibraltar Trades Council. Indeed, it was on official business that he suffered a tragic accident, which not only cut short his political career, but indeed, from which he never fully recovered in terms of his own personal lifestyle, and his passing away on Saturday represents the passing away of somebody who has, in very significant measure, served the interests of the community in the political field, as I say, served for many years in this House, served the community in Ministerial office and I think

that it is right that we should express collectively, certainly I do on behalf of myself and my wife, my Ministerial colleagues, the Government and the community at large, to express our condolences to the family of the late Isaac Abecasis, and express our gratitude for his efforts to the community and that we should remember him. I therefore commend to the House that we should respect one moment's silence, after other Members may have added their own expression of condolences, given that we have lost one of our past brethren.

HON J J BOSSANO:

Mr Speaker, in fact, I heard about the passing away of Isaac in time to be able to join the family on Sunday. As well as all the things that the Leader of the House has said about his contribution to Gibraltar's public life and as a Trade Unionist, he was in fact a personal friend of many years and somebody who, I have to say, when he was in Government was able to retain the same warmth and strong links of friendship with those of us who were in Opposition that existed before we had our different political views. That lasted throughout his life and it was a very sad day for this House that he was so near death when that accident happened. He was on Ministerial duties attending a meeting outside the House and he got run over on the Rock Hotel Road. If, in fact, the RAF had not arranged to fly him to Scotland, we would have lost him there and then. He never entirely recovered and we in this House always welcomed his presence here, although in fact, his capacity to participate in the work of the House subsequent to the accident was very limited. He was highly respected and a very loved politician and everybody's time has to come, but it is right that we should remember the contribution that he has made and the fact that he leaves behind a warm feeling attached to his memory. Which is what, I think, the most that any of us can expect to leave behind when our time comes. So, I support 100 per cent the sentiments that have been expressed.

MR SPEAKER:

May I also add my own support for the remarks expressed by the Hon the Chief Minister and the Hon the Leader of the Opposition, and I extend to his family my condolences. Perhaps we should just rise for a minute's silence.

A one-minute silence was observed.

THE APPROPRIATION ACT 2007 (Continued)

HON L A RANDALL:

Mr Speaker, I rise to address the House on the portfolios that I have the honour to shadow. I will start with Telecommunications.

The Communications Act and supporting Regulations came into effect on the 5th June 2006. The Act is designed to further facilitate competition in the telecoms industry and thus ensure that the consumer is presented with wider choice and lower charges for the services it contracts. Up to this point in time, which is just over a year since the Act came into effect, I have no evidence of the meaningful presence of an operator, other than Gibtelecom, in the areas of the industry which require telephone numbers, fixed local telephone calls being a case in point. I suspect that this has been due to the intransigence of the Spanish Government in accepting our international dialling code 350 and the constraints that this had on our Numbering Plan. I therefore hope that we will soon see competition in these areas of the industry and that it will have an effect, not dissimilar to that which the introduction of VOIP operators had on charges levied for international telephone calls, namely greater choice and lower prices.

For some years now a number of gaming companies have chosen Gibraltar as the location from which to carry out their

business. Yesterday afternoon, the Chief Minister revealed that as at 31st May 2007 the industry employed circa 1,700 people. Furthermore, the estimates show that they are expected to contribute in Gaming Tax and Licences the sum of £7.74 million in this financial year. They are now established as a major input in our economy. We must therefore ensure that the companies offering telecommunications services in Gibraltar continue to invest in building enhanced telecommunications networks, resilience and monitoring in order to provide the gaming companies with levels of service which are second to none.

Mr Speaker, I will now turn to Gibtelecom, which is now 50 per cent owned by the Government of Gibraltar and 50 per cent by Slovenia Telecom, who recently replaced Verizon of the US as the Government's equity partner. In his Budget address last year the Hon Fabian Vinet revealed that in the calendar year 2005 the turnover of the Company rose by 8 per cent. However, when I recently obtained the accounts of the company for the year 2005 and compared the 2005 turnover against the turnover in the restated accounts for 2004, it showed that the year on year increase was in the order of 10 per cent - that is to say that the total had increased from £24 million in 2004 to £26.5 million in 2005. The company accounts also show that in 2005 the earnings before interest and tax for Gibtelecom equated to 34 per cent of turnover. In layman's language this means that for every £1 of turnover the company derives £0.34 in earnings before interest and tax. To put this figure into perspective, the comparative figure in 2005 for Verizon was £0.16 and for the Telekom Slovenia Group it was £0.18. Gibtelecom's margin was therefore almost double that of the Government's current equity partner. Last evening the Hon Fabian Vinet revealed that the turnover of the company had gone up in 2006 by 8 per cent to £28.5 million. Everything else being equal, I estimate that the earnings before interest and tax should be in the order of £10 million. Mr Speaker, I have not been able to obtain a copy of the accounts of the Company for the year 2006 from Companies House and hence I am not able to provide an analysis of Gibtelecom's results in 2006. In this respect, I should be obliged if the Hon Fabian Vinet, as chairman of the Company, would

consider persuading the members of the Board of the Company to making the annual financial reports available to the general public on the Company's website shortly after they are signed off by the Board. After all, it is the people of Gibraltar who own 50 per cent of the company and it is only reasonable that they should have easy access to this information. I was pleased to hear the Hon Fabian Vinet echo my sentiments in his address last year, when he said that he would welcome and encourage further moves by the company to continue to take pricing initiatives over the course of 2006. I was, therefore, disappointed that he did not touch on the subject last evening. I am confident that the Company introduced a number of pricing initiatives during the course of 2006, but in the light of the level of profitability of the Company should they not have been more and more generous? Whilst on the subject of pricing initiatives, the House and users of mobile phones should be pleased to learn that a European Union Regulation on international mobile roaming comes into force in the 27 EU Member States at the end of this week, meaning that consumers will be able to benefit from "Eurotariff" rates from August 2007. The new EU Regulation sets limits on international roaming rates. These limits, or "Eurotariffs", will be gradually reduced over three years following the Regulations entering into force. In order to ensure competition, the Regulation will encourage operators to offer prices well below the "Eurotariff", making roaming easier and above all cheaper for users. The "Eurotariff" rates per minute and excluding VAT will be as follows in the first year: first, Euro 0.49 or 33p for calls made from abroad; and second, Euro 0.24 or 16p for calls received whilst abroad. Whilst this is quite a reduction on what Gibtelecom currently invoices us at the instigation of the Spanish Operator. The Regulation will be directly applicable in the 27 EU Member States (including outermost regions) as from 30th June 2007. Operators will be legally obliged to offer customers a "Eurotariff" rate from 30th June 2007.

Mr Speaker, I will now move on to Transport. I note that the Gibraltar Bus Company proposes to acquire three mini low floor buses for use with routes in the old Upper Town area. In this

respect, I was particularly pleased to note that suitability to Gibraltar's geography is included as top of the award criteria in the tender document.

Mr Speaker, I will now move on to Traffic and start with the state of our roads. As Users of our roads will attest to, the state of our roads leaves much to be desired. In the 2005/2006 Budget session, the Hon Fabian Vinet informed the House that the financial year ended 31st March 2006 would see an extensive road maintenance programme being undertaken, which would include the resurfacing of a number of roads. Yet the actuals showed that this was not in fact the case. In 2005/2006 the Government only managed to spend £468,000 on road maintenance and resurfacing, which was little over the 30 per cent of the estimated figure of £1.5 million. I was therefore pleased to note that in 2006/2007 the Government exceeded the budget of £1.3 million by £200,000 and that this year it proposes to spend £1.3 million. A well maintained public road network that is adequately resurfaced contributes very favourably towards improving traffic flow on our roads. I therefore encourage the Hon Mr Netto, to manage the 2007/2008 budget in similar vein. In his 2004/2005 Budget address the Hon Fabian Vinet informed the House that another issue that was high on the Government's list of priorities was the further provision of car parks and that several options were under active consideration at increasing parking facilities in the Upper Town area and, also, in the South District. Judging by comparing the amount spent against the amount estimated, the level of activity appears to have been almost non-existent. In 2004/2005 less than 10 per cent of the amount estimated of £500,000 was spent and in 2005/2006 little over 7 per cent of the estimate of £1.25 million was spent. In last year's budget the Government estimated that it would spend £7.95 million, £2.55 million in respect of balance to complete and £5.4 million in respect of the budget, in providing new parking facilities. This year all the budget expenditure from last year's I&D Fund estimates have been removed and we are told in the footnote that the work is now undertaken by the Government owned Gibraltar Commercial Property Company. This means we now have no information as to how much of the

budgets approved last year have actually been spent and if they have not been spent why not. Clearly the kind of analysis carried out by the Principal Auditor on the effect of delays in capital projects and the implications in terms of cost escalations, which would have eventually been available in the expenditure, if it had remained in the I&D Fund, will not be there if the projects are not now going to be funded and managed by the Gibraltar Commercial Property Company. Also, when the projects were in the I&D Fund, the Controlling Officer for the Head was the Financial Secretary. Now that these projects are being undertaken by the Gibraltar Commercial Property Company, I should like to know whether the company has any staff employed to manage the projects, and if not, how is it proposed to do so? I raise these issues because I strongly believe that an important attribute of good management is to deliver projects on time and within budget. In this respect, I was pleased to note that the Principal Auditor expresses sentiments not totally dissimilar at section 2.8.6 of his report on the annual accounts of the Government for the year 2005/2006 wherein he states, "I consider that existing procedures should be reviewed in order to ensure that, as far as possible, works are completed on time given that delays in the completion of works generally result in higher costs to Government." Mr Speaker, I have previously informed the House that during the winter months and just before 9:00 o'clock in the morning, it took me at least 30 minutes to get from my residence in South Barrack Road to the Party's headquarters in Watergardens and that the problem was exacerbated when it rained as a greater number of vehicles converged on our roads at the time. I regret to report that if anything the problem continues to get worse. It is evident that the problem will not improve until and unless Dudley Ward Tunnel, which has now been closed since 18th February 2002, five and a half years ago, is reopened for vehicular traffic. Once the tunnel is opened, traffic travelling from the southernmost areas of the South District should be encouraged to access the Town Area and vice versa by using the tunnel. In answer to Question No. 480 of 2006, I was informed by the Hon Jaime Netto that the Government would use its best endeavours to ensure that the tunnel was reopened for vehicular traffic before

the tenants occupied the housing developments currently under construction in the South District. I have mixed feelings as to whether the opening of the tunnel will coincide with the occupation of the properties, as the balance to complete of £5.3 million in the 2006/2007 estimates has not been carried forward, a budget of £1.5 million has been assigned in 2007/2008 and when I looked last Friday in the Government website I was not able to find evidence of a tender for the works on the tunnel. I hope that I am proved wrong and that the tunnel will be opened on time, since I would not like to describe the traffic chaos that could arise from the failure to achieve this target. In concluding on the subject of Traffic, I would like to reiterate that the Opposition continue to be opposed to the excessive increases in Ministry of Transport related fees introduced by this Government with effect from 1st April 2005

Mr Speaker, I will now move on to speak about Utilities. In my Budget address last year I informed the House that based on the figures obtained from the Government at Question Time in this House, the increase for a household that consumed an average of 32 units of water per month equated to 34.4 per cent and that in respect of electricity, the average cost for domestic consumers was 25.4 per cent higher than in 2004. I have only been able to obtain the data for the first ten months of the financial year 2006/2007 and the percentage increases are not hugely dissimilar. Let me say that we continue to be opposed to these increases.

Mr Speaker, I will now turn to the Cemetery. The works carried out last year at a cost of £635,000 have seen a marked improvement to the state of the cemetery. Nevertheless, people have complained to me that the drainage system does not appear to be robust enough to cope with heavy downpours and that the plants, trees and weeds need more frequent attention.

Mr Speaker, I will now turn to Postal Services. We are of the opinion that the level of service being provided is acceptable and much better than the level of service that we were subjected to previously. However, we should not become

complacent as there is still room for improvement. Last year the Hon Joe Holliday in his Budget address informed the House that the Post Office had achieved the best results with income of close to £2 million. He went on to say that he was confident there would be continued growth in the Post Office and that overall income in the current financial year would exceed that achieved last year. Well, the forecast outturn for 2006/2007 shows a total income for the year of £1.362 million, down 32 per cent on its level in 2005/2006, and the forecast for this year is £1.477 million, which is 26 per cent down on its level in the year that he was confident that it would continue to grow. Also, he expected 2006/2007 to be another good year for the Bureau, yet the Licence Fee received in respect of the Gibraltar Philatelic Bureau is £57,000 against £400,000 in 2005/2006. Furthermore, he spoke highly of the future prospects for e-commerce, yet the revenue from e-commerce sales have dropped from £117,000 in 2005/2006 to £30,000 in 2006/2007. The results are not entirely surprising because the optimism expressed by the Minister in his speech was not actually reflected in the estimate of revenue under this Head, which projected a downturn and not an increase.

Mr Speaker, I will now turn to the Lottery. I note that in 2005/2006 the Lottery made a small surplus of £39,000 against a budget of £511,000 and that in 2006/2007 the latest forecast shows that it will make a deficit of £28,000 against a budget of £510,000 and that these fluctuations were attributed by the Principal Auditor in his latest report as being largely arising from the return of the high level of unsold tickets. We are of the opinion that no stone should be left unturned to ensure that the lottery gains the level of surpluses that we were accustomed to in the past. We would therefore like to know why the Government has not developed three of the very sensible recommendations mentioned by the Principal Auditor in his report for 2004/2005, namely displaying advertising boards; changes to the lottery draw and conducting a marketing strategy study, and to which he refers to again in his report for 2005/2006 as still not having yet been developed.

Mr. Speaker, I will now turn to HM Prison. In his opening Budget address last year the Chief Minister informed this House that the building of a prison at Lathbury Barracks would commence shortly. Later in the Budget session the Hon Yvette Del Agua informed the House that delays to the commencement of the prison at Lathbury Barracks had been experienced. She went on to inform us that these works should commence shortly. I was not able to find trace of a document inviting tenders for the construction of the prison. As the Principal Auditor rightly pointed out in his report "time over-runs tend to have a direct impact on project costs". This is yet another example as the budget for the project has been increased from £3 million in 2006/2007 to £3.7 million this year.

Mr Speaker, in concluding I wish to thank the people of Gibraltar for the privilege they have bestowed on me to represent them in this House. I also extend my gratitude to all members of staff in Government departments, Authorities, Agencies and Government companies, for the dedication and effort that they put into making their neck of the woods function efficiently for the benefit of our country.

MR SPEAKER:

I am sure hon Members will join me in welcoming the Hon Mari Montegriffo back to the House after a lengthy absence and expressing the hope that she has made a complete recovery from her ailment and dare we hope that she will participate in this sitting, the Budget.

HON J J NETTO:

Mr Speaker, during last year, a tremendous amount of work has been undertaken by all concerned with the environment and it has proved very difficult for me to concise everything into my address. I have nevertheless selected the main topics and will endeavour to appraise you on the sterling work undertaken by

my staff last year and of planned works to be undertaken, in this area over the new financial year.

The first topic that I would like to briefly touch upon is climate change and the creation of a Climate Change Forum. During 2006 Government formed a Climate Change forum comprising local professionals, scientists and Government Officials to look at how Gibraltar could be affected by climate change and to provide advice on measures that could be implemented to mitigate the possible impact of such changes. As the forum continues to discuss such issues, new ideas and proposals will be presented to Government. We are now all aware, principally arising from the Stern and IPCC reports, of the potential devastating effects of such changes and of the potential substantial costs that could result from inaction. It is principally for these reasons that Government take such issues very seriously and have adopted a very proactive approach in dealing with this issue. In view of this, a report has now been submitted to Government for its consideration and policy decision. In relation to renewable energy sources, I wish to appraise you of the fact that, as was announced last year, we have now undertaken and completed the initial desktop study. This basically considered the possible renewable energy options available and assessed the appropriateness, or otherwise, for adoption locally. This study was commissioned in pursuance of the obligations under Directive 2001/77/EC of the European Parliament and of the Council of 27th September 2001 on the promotion of electricity produced from renewable energy sources. The target is to produce 12 per cent of energy consumption from renewables by 2010. The various options contained in the consultant's report are currently receiving our detailed consideration before decisions are taken on how we will be proceeding with its implementation. In parallel with the foregoing, preliminary trials are being undertaken, on a totally non-committal basis at this stage, on possible wind energy options, with a wind monitoring mast having been installed at Lathbury Barracks. This will provide the basic wind core data for the south end of Gibraltar, as there is little such data available for this area. This will assist in assessing the viability of this

option. The Government remain committed to explore all feasible options in the consultant's report and an announcement will be made once it has had the opportunity to consider the report in more detail.

In relation to other EU Directives, the EU continues to give great prominence to matters concerning the environment and this has meant that new and revised Directives come our way at a fast pace. The Department of the Environment and other associated agencies and departments continue to be actively involved, not only in the transposition of such Directives but perhaps more importantly, in their subsequent implementation so that Gibraltar can adequately comply with such obligations.

The first of these Directives that I wish to comment on is the Air Quality Directive. We continue to monitor air quality in compliance with the First, Second, Third and now also the Fourth Daughter Directives. Such monitoring continues to be undertaken from the Bleak House and Rosia Road stations. In addition, we have extended our passive monitoring under a new agreement with the Environmental Agency. This additional monitoring is being carried out to establish the effectiveness of the measuring taking place. The provisional data available from the automatic air pollution monitoring network shows that there were no exceedances of the various objectives contained in our national legislation or within the European Air Quality Directives or Daughter Directives. Nitrogen dioxide once again failed to reach the long term objective of $40\mu\text{g}/\text{m}^3$ measured as an annual mean, which should be met by 2010. It was well within the annual mean as adjusted with the additional marginal tolerance, that is, $48\mu\text{g}/\text{m}^3$. Regard must be had to the diffusion tube study as this will reveal whether there are other trouble areas that show any hotspots. Ozone has come close to the long term objectives as set down in our national legislation or within the European Air Quality Directives. As this pollutant is not produced locally but is brought to us by mass air movement, we need to keep a close watch especially during the peak months of April to September.

The second Directive that I wish to mention is the Water Framework Directive. The overriding aim of this Directive is to ensure that all our water bodies, both coastal and groundwater, achieve and maintain good status. With this aim in mind, Government appointed consultants to carry out an initial characterisation study of our water bodies. The resulting report provides a descriptive summary of our various water bodies, as required under the Directive, and includes an analysis of the characteristics of both surface-waters and groundwaters along with a review of the impact of human activity on the status of each. Data collected during this reporting process has subsequently been used by the Water Framework Directive Working Group to develop a monitoring network for Gibraltar. Overall, the proposed monitoring network will cover the monitoring requirements of the Directive whilst also considering protected areas and, if needed, the investigative monitoring in areas of concern. The Water Framework Directive Working Group itself is made up of a panel of local professionals, scientists and Government officials. It was specifically established to provide technical and scientific advice to Government on the development and implementation of the Water Framework Directive.

Mr Speaker, whilst keeping to the area of water but moving on into the area of waste treatment, I reiterate the Chief Minister's statement that Gibraltar will soon have its own sewage treatment plant. This is indeed a very welcome announcement and one that will greatly improve the quality of our waters. Despite Gibraltar's waters already being classified as good, based on the regular sampling undertaken by the Environmental Agency during the bathing season at all of our bathing areas, the treatment of our sewage prior to its discharge to sea will very considerably improve our situation and in so doing allow Gibraltar to fully comply with its obligations both in respect of the Urban Wastewater Treatment Directive and the Water Framework Directive. Continuing in the area of waste, I wish to state that the report of the findings of the recent waste study undertaken is now in our possession. This report provides us with up to date information on the types and quantities of waste

produced in Gibraltar as well as the composition of our refuse. This information will enable us to revise our waste management plan and prepare a new waste strategy for the future. However, changes in European law means that waste cannot continue to be disposed of to landfill, as is presently the case with our waste. We must therefore find alternative affordable solutions to the management of our waste that minimises the effect on our environment, including human health, and maximises its use as a resource. Minimising the amount of waste produced, recycling and, as announced by the Chief Minister in his speech, incineration, are all part of our management strategy in order to create sustainable waste management strategies for Gibraltar. An integral part of our future strategy will be for local strategic recycling of some items of our waste, this being despite the fact that we already recycle practically the entirety of our domestic waste at the Los Barrios refuse plant where a separation of recyclable material is effected. This will be augmented this year by the placing of bins for the collection, at source, and subsequent recycling of glass and tin items, thus allowing the public to have a more direct participation in the process. As hon Members are aware, we already recycle a very large proportion of our waste at the Los Barrios refuse plant but this is not enough to meet our landfill commitments. The Government therefore believe that we need to start creating less waste, recycle more and dispose of the remainder in a safe environmentally friendly manner. We believe that incineration has a role to play in our waste management strategy provided it does not undermine the prevention of minimisation of waste options and it represents the best practical environmental option for managing our specific waste streams. Government also consider that energy generated by incinerations should be recovered as far as practicable, for example using combined heat and power schemes and consistent with the requirements of best available techniques, not entailing excessive costs, this being a fundamental principle adopted by the relevant Directives. It is also worth mentioning at this point that the new power station will also be adopting these same principles. Hon Members should be aware that during the course of last year, an accumulation of a few years' worth of waste refrigeration

equipment that had been placed in temporary storage, was transported to a specialist treatment and disposal facility in Spain, this being in full compliance of the requirements of the Ozone Depleting Substances Directive. This operation also included the disposal of items like fire extinguishers and other such like equipment, all of which are caught by the said Directive. Similar treatment was afforded to some years' worth of vehicle tyres that had been stored awaiting the identification of a suitable disposal facility for such items.

Moving forward to this year, consideration is being given to the establishment of an environment park locally. This is a worthwhile project that will cater for the public's general needs in relation to the disposal of all types of domestic waste, with the exception of refuse, which will continue as I have stated already. Included as part of this project will be a facility to dispose of electrical and electronic items, thus enabling us to more fully comply with the Waste Electrical and Electronic Equipment Directive as we would then be able to separate and sort items, as is required by the Directive, so that proper reporting to the EU can take place.

Work in connection with the Habitats Directive has been on-going during last year and will continue during this year and beyond. The principal objective of the Habitats Directive 92/43/EC is that of preserving and improving the quality of the environment through the protection of natural habitats, wild flora and fauna. There are thus numerous provisions under the said Directive that will be implemented in Gibraltar such as the development of a surveillance program. Under Article 11, Member States are required to undertake surveillance monitoring of the conservation status of natural habitats and species specifically described in the appropriate annexes, some of which are found in Gibraltar and its surrounding waters. The result of the surveillance program needs to be reported to the EU every six years. This information is then used by the Commission to produce a composite report. Work is therefore currently on-going in preparing the report for the term ending in 2006, as the new reporting period began this year and covers

the period up to 2012. Although surveillance reports are only submitted to the Commission every six years, the surveillance process is carried on a continuous basis. Year round monitoring and the production of yearly reports in this regard is seen as the best method of attaining the monitoring objectives of the Habitats Directive. Moreover, information collected under the surveillance program has also proved useful for the implementation of other EU Directives such as the Water Framework Directive, as information is being gathered both for our terrestrial and marine environments.

This year we have again celebrated World Environment Day on its established date of the 5th June with a full day of events at John Mackintosh Hall. The celebration of this day is one of the principal vehicles through which the United Nations stimulates worldwide awareness of the environment. Every year the United Nations select a theme and this year's theme must be regarded as the one that has been the most prominent ever, since the topic of climate change has been at the centre of most news issues throughout the year. The events of the day were similar to the previous year with the morning session having been dedicated to the schools and the afternoon to the business community and industry. The schools performed songs, plays and poems, and the students listened to a talk given by Dr. John Cortes. It is gratifying and reassuring to see the wealth of knowledge that our youngsters already possess and I would like to thank the Department of Education and all the teachers at the various schools, not only for the efforts in making the day such a success but also in the important work being carried out at all our schools, as it is this that is so evident in the children in their awareness of such matters. The afternoon session was principally geared towards making the community, businesses and the industry aware of the importance of making their practices as environmentally friendly as possible in order to assist in the mitigation of effects that our actions are having on the environment and for them to be better appraised of the scientific work that is being undertaken in Gibraltar in relation to climate change. These effects were highlighted in talks given by distinguished speakers from UK, Canada and Gibraltar. Another

event, which was a first ever and held as a forerunner to World Environment Day, was the Trade Fair, held on 2nd June. This was held at Casemates with companies, Government Departments and Environmental NGOs exhibiting products and providing information on possible ways of reducing negative effects on our environment. A very positive response was received, with much interest shown by the community at large. Once again, I take this opportunity to thank them all for their support and effort in this worthy endeavour.

Mr Speaker, moving on now to the work that is planned for execution this year, I wish to comment on the following projects and work items. In the area of noise abatement, I wish to state that the work needed at the Oesco Power Station to sound-insulate the facility has now been determined and the necessary contract documentation is currently being prepared to have this work undertaken during the course of the current year. The Government feel that this investment should be seen both in the short-term, that is by reducing noise levels in the area and also in the long-term as the envelope of the building will allow for future users, once OESCO is no longer there. Work on the transposition of an EU Directive on energy efficiency in buildings is in hand and Building Regulations will be amended as policies on this are adopted. Government are considering ways by which to assist with this measure by perhaps exempting from the payment of import duty those materials and equipment directly associated with the installation of solar panels. An announcement on this will be made once final decisions are taken. The DPC, ahead of implementing the necessary changes to the Building Regulations, has adopted a practice of scrutinising, as much as is reasonably possible, development proposals for energy efficiency measures and is influencing developers to encourage them to adopt such measures as standard for future development proposals, as and when opportunities arise.

I wish to mention the fact that a study was carried out last year of areas where bicycle racks could be installed, thus encouraging the use of this non-polluting means of transport. I

am pleased to state that this year we will be initiating a pilot scheme with the installation of a number of bicycle racks at certain locations throughout Gibraltar. It is hoped that this will encourage more persons to use the bicycle as a more environmentally friendly, sociable and healthy option and if successful, the scheme will be extended to include other areas. In relation to energy saving household items, work is currently on-going on the establishment of standards and adoption of measures to promote the use of such items and in devising ways by which the public can be encouraged to purchase such items as opposed to other similar but less environmentally friendly products. Once again, details on this will be announced as and when systems are put in place.

Mr Speaker, our programme for the refurbishment of refuse holding facilities continues this year with a number of areas being targeted. The first of these involves the relocation of the facility at the top of Forty Steps, which is to be moved to the opposite side of the road where a purpose-built receptacle will be constructed. This new location is considered to be a better site than the existing. The second area to be targeted is at Castle Steps where, again, the existing bin receptacle will be relocated and a new purpose-built facility to be constructed at a nearby location. New replacement facilities are also envisaged for the area of Tankerville House, below Sacred Heart Church, at the junction of Flat Bastion Road and by Kent House. The facility by Wilson's Ramp is also scheduled to be refurbished. In addition to the foregoing, additional refuse bins will be provided where needed and damaged bins will be replaced, this being as part of our programme to improve the general appearance of such facilities. Government are also looking at the possibility of providing underground facilities wherever these may be feasible. This is considered to be a more aesthetically pleasing and tidier arrangement as everything would be below ground and away from public view. Exploratory work is intended to be carried out during the year on a number of possible sites that appear to lend themselves to this new arrangement.

Continuing with the theme of refuse storage, our attention has been drawn to the area of the Europa Advance Road refuse holding area. Despite the site being relatively secluded, the area does suffer whenever there are windy conditions with mainly papers and plastics being blown about by the wind. Various options have been considered to address the problem and it is considered that the erecting of netting over the entire area will go some considerable way to addressing this problem. The concept is currently being developed and if considered feasible, work on this project should be able to start during the course of the year. An added benefit resulting from the installation of this netting is that it should prevent, or at least make it that much more difficult, for seagulls to forage for food in the area, thereby cutting down artificial feeding grounds for seagulls, thereby assisting our management plan.

Mr Speaker, during the course of last year, two service contracts that had expired were renegotiated with the current service providers and have been extended for a further term. The first of these is the Master Services contract. This contract now operates on a cost plus incentive bonus basis. Advantage has been taken of the new contract to improve on the current work schedules by adding additional areas and/or by increasing the frequency of cleaning of existing areas. The new contract will also now include for a more regular cleaning of areas that are not easily accessed and which are not included in the old contract. These areas lie mainly along the steeper slopes of the Upper Rock Nature Reserve and along our shoreline. Such areas require specially trained rope access personnel and Master Services now have such trained personnel. Also included in the new contract is the provision of a recycling service for glass and tins, a facility that Master Services will be operating for the Government. Hon Members will have noticed that on page 35 of the Draft Estimates of Expenditure, the difference is due to the new contract being in place, as a result of the new additions to the contract and the consolidation of Master Services work previously shown in the Ministry for Housing and Tourism. The second such contract is with Wildlife Limited for the running of the Alameda Botanic Gardens. Wildlife

are contracted to manage and maintain the Gardens but under the new arrangement, they will also be providing additional services mainly in the field of nature conservation. There is an on-going commitment under the Habitats Directive, as previously mentioned, for there to be continuous surveillance monitoring of habitats and of flora and fauna and Wildlife Limited have recruited suitably qualified and experienced individuals to provide this additional service to the Government. In addition, Wildlife Limited will now also be providing Government with specialist advice in the areas of horticulture, flora and fauna, tree management and all aspects of the natural environment, for all areas for which the Government is responsible. Yet an additional function to be performed under the new contract is work within the Upper Rock Nature Reserve, on areas that are not ordinarily frequented by tourists or the public. This relates mainly to the reinstatement and subsequent maintenance of paths and walkways that have been lost due to historical lack of maintenance and the passage of time. In fact, quite a lot of work has already been undertaken in this respect with Inglis Way, Douglas Path and Martins Path already being restored to their former glory. I would like to take this opportunity to thank the team of workers associated with this task, for their enthusiasm and commitment to their work. Whilst on the subject of the Upper Rock, preparatory work to improve the apes facilities by the introduction of additional water points has already taken place and ponds will be constructed at certain strategic locations during the course of the year, principally at the Royal Anglian Way, Princess Caroline/Farringdon and Middle Hill feeding sites. Coming back to the Gardens, we will be continuing with the landscaping of more areas and installing new and improved irrigation systems. More interpretation panels will be erected and the Cottage exhibition will be improved. Repairs and painting of walls and buildings will take place as well as the construction of a new mess and locker rooms for the staff as well as the provision of additional storage facilities. This year will also see the erection of a building, properly equipped, to be used as a Herbarium and Seed Bank. Its function is that of preserving dried plants as a scientific reference collection and where seeds

would be kept both as a reserve of genetic material and for future propagation.

Mr Speaker, continuing on a similar theme, it should again be highlighted that this year has been declared by the Gibraltar Ornithological and Natural History Society, as the year of the tree. This is naturally supported by my Ministry as we are all keen to see an increase in the number of trees throughout Gibraltar and we therefore continue in our efforts to identify new areas where planting can take place. A large number of trees need to be replaced at the Upper Rock and a survey is being undertaken to identify what can be done in this area. However, the most significant project currently being contemplated is at the Eastside sand slopes. Preparatory work is currently ongoing on a scheme that will entail the extensive planting of hundreds, if not thousands, of trees and shrubs on the Eastside sand slopes. Apart from the natural environmental benefits that will result, the trees and shrubs will also act as an additional stabilising measure and, when mature, also act as a natural rockfall barrier. A drip water irrigation system needs to be put in place before any planting can be carried out and preparatory work on this is currently taking place. The creation of this unique habitat will enable us to consider the possible re-introduction of certain fauna that is believed to have previously existed in the area but which have since become extinct as a result of the corrugated metal sheets having been installed for the then water catchments. Consideration is therefore, currently being given to the possible reintroduction of the Spiny-footed Lizard and the Black Wheatear. Already, due to GONHS work in the seeding planting programme at the sand slopes, a noticeable proliferation of fauna and flora is taking place. This thus constitutes a biological gain for the environment. Therefore the next phase of this project would considerably enhance the flora and fauna of the area further, in what in essence would be new woodland in Gibraltar, thereby increasing our carbon sink.

Mr Speaker, funding has also been provided this year for a number of other projects that I will briefly mention. A survey of the location of benches and litterbins was recently carried out

and financial provision has been made this year for the provision of additional litterbins and benches throughout Gibraltar. This is despite the fact that we have a situation with more litterbins per square metre than would be considered as the norm. We are nevertheless, determined to avoid the excuse that because of lack of bins in any particular area, people could be justified in throwing their litter on the ground. There are currently 332 litterbins throughout Gibraltar and this project will see the number of litterbins increase to approximately 430 by the end of the year. In relation to benches, our policy is to provide these wherever possible but certainly at locations where the public, especially the elderly, tend to congregate, such as in proximity to bus stops. The Harbour Views Promenade is a popular area. Last year substantial work was undertaken in repairing storm damage to the reversionment and advantage was taken of this project to replace some of the timber balustrade. Nevertheless, there is a continuing need to repair further sections of this balustrade, with such work scheduled to be undertaken this year. A significant project undertaken last year were the works to begin to beautify the Cemetery. All the pathways within the Cemetery have been completely redone and the newly paved paths have made a significant difference to the overall look of the area. The materials that have been adopted for the project will improve the situation whenever excavations are carried out along the paths as the concrete blocks used can easily be removed and subsequently re-laid, thus avoiding the unsightly mismatch of materials that previously resulted. Yet another project completed this year was the restoration works at Mediterranean Steps. These steps constitute a site of biological interest and an area of outstanding natural beauty and the works that have been completed has resulted in the complete restoration of approximately one and a half kilometres of pathway. I would like to take this opportunity to thank the Bonita Trust for having funding this very important project. I would also like to thank the officers from my two departments and GONHS for the invaluable contribution to the project as well as to the contractor, Nuttalls, for their sterling work. Finally, on this topic I would urge all members of the community and of Parliament,

been on pursuing a more healthy and enlightened life, to become regular trekkers of these new opportunities.

Mr Speaker, moving on now to the Technical Services Department, this Department has been heavily involved during the last financial year in moving forward many of the Government's major projects, ranging from street beautifications to new car parks. Most of these projects started on site during last year and others have been advanced through the pre-contract phases and will therefore start this year. The continuing programme of beautification works in the city centre area saw the completion of the Engineer Lane and Bell Lane Project. This entailed the complete repaving of these streets and the results are there for all to see. This has resulted in a marked improvement to the urban environment in this area, which serves to link Main Street with the lower reaches of the Upper Town. The possibility of extending the beautification schemes southwards to include Cornwall's Lane and Governor's Street is being considered. This would reinforce this link further which, when coupled with the Urban Regeneration initiative, would yield a major positive change. One of the major projects started during the past year involves the Orange Bastion scheme. The overall project is divided into various phases, starting at Reclamation Road, moving through Fish Market Road and Market Place, and ending at the junction of Corral Road with Winston Churchill Avenue. The first phase involving the link road between Reclamation Road and Fish Market Road was completed last year. This phase not only provides a new road but has also restored the existing vaults within the Chatham Counterguard and cleared the buildings on top of the latter. The current look of the area is a significant improvement over what existed previously, with the illumination of the city walls being worthy of note. Work also started during the past year on the second and third phases. These will continue the improvements to the aesthetics of the area achieved in the first phase along the whole length of Fish Market Road, up to and including Market Place. A major change at Market Place will be the improvement of the traffic circulation arrangement for buses and pedestrians, which has been made possible by the removal of

the existing clock tower and shelter. The clock tower, which is a familiar landmark at the entrance to the city, will be relocated within the immediate area. The completion of this phase of the works will serve to vastly improve the urban environment of what is in effect the main entrance to our city. In parallel with the first phase of the project, work to the Orange Bastion itself was also completed. The demolition of the old Cleansing Section Depot along Line Wall Road allowed the area to be opened up, a new car park created with additional spaces and the Bastion to be restored to its former glory. The opportunity was also taken to relocate the southbound bus stop off the main road thus removing the impediment to the flow of traffic. I believe that the various phases of this project serve as an example of a successful marriage between restoring our heritage and providing improved traffic and pedestrian circulation, as well as a more pleasant cityscape for the enjoyment of all.

Mr Speaker, moving on to highways and parking related projects handled by Technical Services, construction started during last year on the new link road between Castle Road and Willis's Road. Once completed, this will improve circulation of traffic in the upper town area. Work also started at the same time on the new multi-storey car park at Willis's Road which will see the creation of over 130 spaces, including a proportion of garages as well as stores. Two other car park schemes were also started during the last financial year, namely those at New Harbours and Sandpits. The New Harbours project will generate close to 200 spaces by constructing an additional floor over the existing buildings and will service the lower areas of the South District. The Sandpits car park will generate close to 100 spaces whilst at the same time provide new sporting facilities in the form of three tennis courts and two padel tennis courts. This project is a good example of making the best use of available spaces for the benefit of all the community. The completion of these three car park projects during the current year will see between them the creation of over 400 parking spaces. This will no doubt go a considerable way towards addressing the parking problems experienced in these areas. The demolition and replacement of the full length of the existing balustrade along Europa Road and

South Barrack Road will continue during the year. The first phase was completed last year and the second phase is currently under way with the third and final phase scheduled to start shortly. The visual improvement along these stretches of road is very apparent when old and new sections are compared and befits what is a major route for tourists and locals alike. The highways maintenance programme has continued during the past year with on-going repairs having been undertaken to footpaths, roads, and retaining walls. A major project was the complete refurbishment of Smith Dorrien Bridge which required extensive repairs to steelwork members and connections including both pedestrian walkways. The execution of these works was further complicated by the need to maintain vehicular access at all times to avoid losing the availability of a major road artery. The present year will see the Highways Maintenance Programme proceeding, achieving a balance between maintaining our road infrastructure and allowing vehicles to circulate is always difficult. The resurfacing and repairing of major roads will therefore be undertaken in a manner that will avoid disrupting the flow of traffic during peak times.

Mr Speaker, the past year has seen the completion of several projects related to cliff stabilisation and rockfall protection works. Amongst these were the cliffs above the site of the new crematorium being constructed at Europa Advance Road. This year will see further work being undertaken by the Department in this field including the completion of stabilisation of the cliffs above Laguna Estate. A major project that will proceed to tender this year will be the rockfall protection works to the Dudley Ward Tunnel approach road. The Department has over the past year been working on the preparation of the design and contract documents for the scheme. The magnitude of the project means that the duration of the works will not be short but once completed, a key section of our road network will be reinstated.

Technical Services Department will this year continue to manage Government's extensive programme of major projects. Apart from those already mentioned, the Department will also

handle the internal and external refurbishment of the Public Market building which will involve the laying of new paving and provision of new services internally and externally. There will also be a rationalisation of the use of the available space which, when linked to the beautification works at Market Place, will serve to open up the whole square for the benefit of pedestrians. The beautification works along Corral Road up to Winston Churchill Avenue will also be proceeded with. This phase includes the access road up to Landport Gate thus providing a link to the very successful Casemates Square project. In fact, when combined with the Market Place scheme, this project will complete the enhancement of the main pedestrian entry points into the city. In addition to this, Technical Services will continue to manage the construction of a new prison at Lathbury Barracks. When completed, this will allow the current site of the prison to be vacated, thus allowing for future expansion of the Tower of Homage restoration project.

Mr Speaker, during yesterday's proceedings, the Hon Charles Bruzon and the Hon Bernard Linares, quoted various personalities at the end of their speeches. I, too, would like to quote some words of wisdom from Elwin Brooks White: "I would feel more optimistic about a bright future for Man if he spent less time proving that he can outwit Nature and more time tasting her sweetness and respecting her seniority".

In conclusion, Mr Speaker, Members of Parliament will appreciate the diverse and comprehensive scale of investment in matters for which as Minister for the Environment, I am responsible. Thanks to all of these works and projects, we can certainly say that both the living and urban environment is progressing well for our benefit. Finally, once again I will like to thank my staff at the Ministry for their hard and loyal contribution in this regard. Thank you.

HON S E LINARES:

Mr Speaker, these are the last Budget addresses to be given to this our new Parliament before the next General Election. We are convinced that next year we will be addressing this Parliament from the Government side since people are realising on a daily basis that the GSD Government is interested in spin, photo opportunities in prize-giving ceremonies and bowing down to the needs of the rich, delivering pittance to the rest of the community and giving the impression that everything they do and say is either a school of excellence or the state of the art. The reality is that this Government is not interested in the needs of the majority and I intend to demonstrate this in relation to Education, Training, Youth, Culture and Sport.

Let me start by saying that on the educational front we have seen this GSD Government promise a new school. The new school that this Government intended to build at the site of the old Naval Grounds is now not happening there, but it will be built now at the Coaling Island site. Last year in my Budget speech, I said that as things were going the school will not be built until the year 2010 at the earliest. I would like to correct that and say that I do not think that it will be ready for children to attend the school until the year 2012 at the earliest. This means that the overcrowding of Bishop Fitzgerald, Governor's Meadow and to some extent St Anne's School will continue for another five years. Children will have completed their school life at their First and Middle School level by then. This is yet another generation of children being educated in sub-standard conditions. Yet the Government see it fit to push the developers of the King's Bastion Leisure Centre, to the limits for them to complete this project just before a General Election to try to give the impression of how wonderful they are. The maintenance programme of schools is in absolute disarray. Recently, the Department of Education after having written out a Health and Safety policy, which seem to have been done due to the pressure exerted by the GTA and by myself, via questions in this Parliament they embarked upon an audit of some schools to try to ascertain their condition. In Question No. 172 of 2007, that is

in February, I asked the Minister whether the Health and Safety audit of all institutions had been completed. His answer was and I quote: "After consultation with headteachers and the NASUWT (Gibraltar), the Department of Education and Training commissioned a sample Health and Safety audit from the Royal Society for the Prevention of Accidents. The visiting consultant carried out a sample audit of four educational establishments in order to advise the Department of Education and Training on policies and on the way forward. This written report, which has now been received, will now be presented to headteachers at the forthcoming headteachers' meeting with the Director of Education and Training later this term, and certainly to the committee of the NASUWT. The findings of the report will be used to identify areas for further development in respect of all other institutions." Then, I asked whether I could have a copy and the reply was, (as is usual from this Government) that they had to follow a proper protocol. The fact of the matter is that the protocol has not even started because the report is lying somewhere on the Chief Minister's desk, and the headteachers as well as the Union, will have to wait for him to approve or even edit the parts that he thinks are not for their consumption, or even the consumption of the electorate since it might show that schools have not been properly maintained despite the fact that they claim the opposite, or that they lack the procedure in relation to Health and Safety and that things are done in bits and pieces. Let us not forget the state schools like St Bernard's are in, this fact acknowledged by the Government themselves. Yet in nearly 12 years that they have been in Government, what have they done to solve this problem? Nothing at all but to try to give the impression that they will be doing something. In Question No. 154 of 2006, I asked whether they have taken a decision in relation to St Bernard's School, whether it will be relocated in the development of the site of the old St Bernard's Hospital and whether the development was going to take place in say three, five or ten years, or whether St Bernard's School would remain in that situation for that period of time? The answer as usual and I quote again was, "No, it certainly will not be anything like ten years or anything like that. Definitely the project is on within the reasonable and feasible and viable time

that we have before us. I have already given in a previous question assurances that certainly we are seriously looking at the overall site of the old St Bernard's Hospital." After 12 years in Government it is no good to make promises that it will be done in the next four years, as has been promised by the Chief Minister and the Minister himself. I am sure that if the old Naval Ground project is anything to go by, then it will take more than ten years in reality and probably they would ask the developers to include the Theatre Royal, which is relatively near to be completed by the Election of 2012, before they build the new St Bernard's school. The fact is that, again, another generation of Gibraltar children will be educated in sub-standard conditions.

Again, last year I mentioned the fact that truancy in schools (which is on the increase) was not taken seriously by this Government. It is because first the Minister stated that legislation was to be presented to this place, then he said that it had been drafted by the Legislative Unit, then that it was at an advanced stage, and at one point that it was now at the Council of Ministers, et cetera. The reality is that now it seems that it will not even see the light of day. He stated that he had gone cold on the issue. Well the fact is that even the Women's Association has come out showing their concern in relation to the amount of absenteeism in secondary schools during the half day period. But, unfortunately, this is not happening during this period but all year round. Again, last year in my Budget speech I mentioned the fact that we urgently needed a Pupil Referral Unit. The Minister in answers to questions has argued that there is no need for this Unit, even though that was not his position when he was headteacher of Bayside. The fact again is that he gave us all a long explanation why pupils should not be segregated or put in a sin bin types of places, since this is not the way that things work now. Now they have set up a Pupil Referral Unit, albeit with a different name that is an Alternative Learning Centre. I wonder where his previous arguments stand now. Behavioural problems are on the increase and this is due to a number of factors that teachers in schools are encountering. That is, that there are many families breaking down and, as has

been highlighted in this Parliament by my colleague the Hon Fabian Picardo, the system is failing children when it comes to welfare reports in divorce cases due to the time it takes to present these reports. Now we are finding that the system is also failing in relation to children with behavioural problems and there does not seem to be anyone where a child can go to have any type of counselling service within the school. Yes, teachers can and have traditionally helped children in these circumstances, but unfortunately, due to the high numbers it is becoming impossible for teachers to help out in any way. Not only that, but we are moving into a culture of blame on the teacher for any interference into what is deemed to be of a personal nature. I must say at this stage that it is not the Behavioural Educational Support Team's remit to tackle these issues but proper counselling professionals as well as the intervention of the social services that should be dealing with child depression, bullying and isolation. According to Childline (Gibraltar) there is rarely a week that goes by in which some referral is not made to the Police, Social services, schools, et cetera. Another aspect in the educational front in which this Government could have done better is that of nursery education since what they have done is to create nursery places but only for one session, either morning or afternoon. This creates the problem, mainly to working parents or as is normally the case to grandmothers and/or grandfathers, who have to look after the children the alternate session. Many children are also sent to private nurseries which are generally good but the Government are only willing to keep a watchful eye on, and we believe that in these crucial years of children's lives more can and should be done to try and avoid our society falling down the slippery slope that it is going.

I will now move on to our youth which is another of my portfolios and that is the ever-increasing problem of juvenile delinquency. It is now becoming a regular occurrence to hear in the media about juveniles either vandalising places or worse causing grievous bodily harm to others. The case of the two juveniles who committed grievous bodily harm to a 70 year old, which is not a giggling matter, comes to mind. Again, I must refer to my

previous Budget speeches but especially to last year's because it seems as if the Government did not listen to what I was saying or they brushed aside the issue, such as they are doing today in their giggles, because it is not one where there is an opportunity for a photo. I say that due to the fact that community service as a sentence is not properly managed, meant that some of our juvenile delinquents were locked up in a Victorian prison and as soon as they came out they committed offences again. Well, the fact is that these juveniles apparently have committed crimes before and yet nothing was done. In this case I have just mentioned, Judge Dudley acknowledged the defence claim that the system had failed the two boys and urged the authorities to tackle shortfalls in the provision of care for young offenders in Gibraltar. These comments made by the Judge states that the system is failing but the worst thing of all is that this Government are constantly on denial mode and vilify anyone who dares speak out. I am not worried about being vilified since that is probably what is going to happen when the Chief Minister responds later, but everyone knows that the facts speak for themselves. Continuing with our youth it is obvious that this Government think that by building a Sports Complex and a Leisure Centre all their ills will be solved. Let us not forget that the bars at Casemates were for our young people to have a place to go, as stated by the Chief Minister, and what has happened is that it has become a centre of excellence for young drinkers and drug takers and also for gang fights as has happened recently in relation to the three soldiers who have been charged. Yes of course, there are many young people as well as old that are law abiding citizens and know how to enjoy themselves, but as I said before there are too many of these types of incidents occurring of a criminal nature which has to be tackled from a very early age. That is this Government's failure which we believe we must tackle as a matter of urgency. This GSD Government is failing our youth in that it is pushing them into going to live to another country and it is not only failing the young people with social and academic problems but also those that do well in school and obtain qualifications. These are young people who aspire to have a home of their own and in the society we live in young people more and more want their

independence from their parents. As mentioned above, those in social care and those who have family problems might want to have a home of their own in order to make something of their lives. This GSD Government has not only had a disastrous housing policy but young people cannot aspire to a home because they are not entitled to get on the pre-waiting list until they are 21 then after two years they are moved to the waiting list proper. This means that they have not got a chance of a home at least until they are 23 at the earliest. This is an issue which I have brought up before and previously, again ignored, which young people are concerned about. The reality is that the only option they have is to hire a flat in Spain. This is increasingly happening even with graduates after completing their degrees in the UK. It seems that we are slowly replacing the population of Gibraltar with rich people. There are even companies that are in Gibraltar that have an unwritten policy not to employ Gibraltarians. Even our Government is doing this by employing many from abroad to do work that we believe we can give to our young Gibraltarian residents, which the local taxpayer paid to educate.

Going on about our young people, it is obvious that this GSD Government do not understand their needs. I have been asking question after question related to young teachers who finish their degrees and want to settle in their homeland. This GSD Government have been using young teachers with disdain by not giving them a contract for being on a long term supply. The fact is that they not only lack rights but they are not able to get a mortgage if they are lucky to be able to afford an affordable home, for the simple reason that a mortgage lender will not consider them to be employed long term. This has been admitted by the Chief Minister and the Minister for Education and the Minister has gone as far as stating that they were going to remedy this last September. To date, we still have the same situation and young teachers are increasingly finding themselves again hiring places in Spain, with all the consequence that this move entails as to voting rights, sending their children to our schools et cetera. This is also the case with many Classroom Aides, young and the not so young. I heard an

anecdote this morning that I remember the Minister telling me that these are no longer called Classroom Aides but they are now Learning Support Assistants. That was the politically correct way of calling them. As soon as they found out that by calling them Learning Support Assistants it meant that they will be attached to a scale in UK for Learning Support Assistants, and it will mean financially that they would have to pay them more. Now it is let us put away political correctness and start calling them Classroom Aides again. Then we have the situation that is being encountered by the lunch ladies who are on an annual contract with their jobs being terminated at the end of the year and not knowing whether they have a job from one year to the next. This is what happens to people who are employed in supermarkets across the border and termed as "contratos basura." I must also mention at this stage that there are many problems arising from this because of the turnover of people employed to do this work, despite the Minister saying that training has been provided to them this is not always the case because, again, of the turnover. In relation to the 14 to 19 education, the GSD Government have been dragging their feet in that it seems that the Minister has created a committee to look into this important area of education and is not being proactive enough for it to produce meaningful solutions to what is an important time in young people's lives. Meetings are rarely held and the terms of reference are constantly changed which do not help to produce anything.

In training, we hear year after year Government stating that training has become qualitative as well as quantitative. The fact of the matter is that I, as well as the Minister, cannot and, he especially, should not, state this since he has no way of valuing this. We have asked many questions in this Parliament as to whether students have obtained employment after their training and they have not been able to do so since they do not monitor the situation at all. As mentioned above, the fact is that more and more Gibraltarians are finding that some companies do not want to employ them and that managerial posts are being taken by people from abroad. On many occasions it is to do with the qualifications they might have. This is not surprising when we

take into consideration that even the Government contract people from abroad. Let us not forget that Government have under spent on training as monies that can be supplied by the EU, which is in the estimates at times, has not been spent. So where is the quantitative aspect that they mention every year? We believe that a review of the whole training provision needs to be looked at with a view to really provide quality and quantity if that is needed.

In relation to the Vocational Training Scheme it took this Government more than ten years to realise that the allowance given to them was the same as it was since the GSLP introduced it way back in 1989/1990. The GSD then were very critical of the Scheme and said that it was used by employers and companies as cheap labour. The fact is that excluding some people who have special needs and are under the Scheme long term, there are others that have been in the Scheme for years on end with hardly any training being provided to them, and the worst thing of it all is that they have been attached to Government Departments and Agencies. There have been cases where a vacancy has existed in the Department and the person who has been doing the work under the Scheme has applied for the job and has been told that they have not got the right qualifications. What have they been doing for the last six years, five years, eight years in some cases in that Government Department, where has the training been? If this is not using people as cheap labour by the GSD then I do not what is.? Another aspect of the Vocational Training Scheme which is failing is that of the training provided, which as young people constantly tell me is either non existent or unsuitable for the work they do.

Another of my portfolios is that of culture and in this front we see the legacy of the GSD Government in the monumental disaster of the Theatre Royal. This wreck will symbolise the failed grandiose attitude of this Government. It is incredible to hear the Minister for Culture say that the Theatre Royal is still going to be done, when everyone knows that this is virtually a non starter for the reasons that have been aired not only in this Parliament but

everywhere in town. Another of the failures of this Government in relation to culture is that of the Music Centre. It is just not good enough to say that it is being run and that the responsibility of the Music Centre is that of the trustees. The GSD Government, and especially the Minister for Culture, have a duty to make sure that a big building which belongs to the people of Gibraltar and that monies which is taxpayer's money is being used for what it was intended to be used. To date we see a dilapidated building which is hardly being used, yet there are many who could do well if the opportunity of its use is made available. Yes, the Ince's Hall has been refurbished but yet we see that the lift that was promised is not even in phase two which the Minister announced today. I presume that now that they have got wind of this they might even promise a lift for the next Election since such is their desperation. What we are getting on the cultural side are bands and orchestras coming to Gibraltar when we do not even have an orchestra ourselves. The Marillion concert, which I noticed the Minister omitted to mention in his address, was not the great success that the Minister said it was. This concert was attended by approximately 800 people and the sound was atrocious, I am not criticising the band itself I am criticising where they sing and where they are, due to the bad acoustics of the Tercentenary Hall. On this issue spin was used by the Government to try to cover up the failure of this project but those who attended were not fooled.

In relation to sport, last year I was given this portfolio on an acting basis and I mentioned the fact that the Hon Ms Montegriffo had been criticising the Government for the time it was taking to complete the Sports City project. I would like to say that at long last the Sports City is complete and we will see whether this place will be manned properly to be able to be used to its full potential. I would like to also mention, at this stage, that it seems that there has not been any provisions made for parking for the users once the pay parking beside is converted into an office block. Continuing on the sporting front it is incredible that this Government despite funding the GFA case in relation to the malicious and bad intentions of the Spanish authorities to ban them from joining UEFA, there has not been a

single press release from the GSD condemning them for their actions. It clearly shows that this Government's priority is not to speak out for their people but to dance flamenco with Pepe Pons.

In conclusion, we have a Government that has failed and is failing in many fields but the failures that I have mentioned above are of fundamental importance since it deals with peoples lives and how we help and assist them in the problems that they encounter for one reason or another. As I have demonstrated, this Government after nearly 12 years, I know that they are not listening and are mumbling under their breath, it must be their nerves, they are nervous and uptight about what I am saying. I have demonstrated that this Government after 12 years have done little to improve the lives of the most needy and doing grandiose projects does not show the quality of a Government. I am not going to end up with a philosophical phrase from somebody else or a quote from somebody else, but I will actually mention something that somebody in this Parliament has said before, that is, the Chief Minister. It was the Chief Minister himself who once said that we must not judge a Government by the amount of brick and mortar they put up but how citizens are treated and assisted. This has been the GSD's failing. Thank you.

The House recessed at 1.00 p.m.

The House resumed at 3.05 p.m.

HON LT-COL E M BRITTO:

Mr Speaker, this year I will begin my contribution by reporting on matters to do with the Fire Brigade and subsequently I will turn to our Health Services.

As we have grown accustomed to expect, the Fire Brigade has continued to perform operationally at its customary high

standard and during the period January 2006 to December 2006, they responded to a total of 1,360 calls, that is, an average of almost four calls on every single day of the year. These calls were classified as 161 actual fires, 367 other emergencies, 430 requests for special services, 136 ambulance attendances, as well as 241 false alarms with good intent to fire turnouts, two to bomb alerts and five to special services. Unfortunately, and at considerable risk of causing delay in attending to an actual fire or to other emergency, the Brigade was maliciously called out on 18 occasions on false alarms to non-existing fires. I call on the public to realise how dangerous it is to others to call out the Fire Brigade on a false alarm. Indeed, it may be a member of their own family or a friend who could be affected. The Brigade also mobilised the Emergency Ambulance Service on 3,295 occasions. During the past financial year, the Fire Brigade has continued with its programme of continuous professional development for its personnel. Deputy Chief Fire Officer, Guillermo Mauro, attended the Brigade Command Course at the Fire Service College. A number of other officers also attended courses at this same College which included the Ship Fire Fighting Instructor's Course, Fire Safety Courses and the Operational Command Course. I am especially delighted to inform Parliament that one of our Fire Fighters, Mr Karl Scortino, was awarded the Silver Axe during his 12-week induction course in the UK. This success is particularly noteworthy considering that the course involved members of five other UK Fire Brigades and that the Silver Axe is awarded only to the Fire Fighter recognised as the best recruit of the whole course. I am sure that all Members will join me in publicly congratulating Fire Fighter, Mr Karl Scortino, for his great achievement. Using funds approved by Parliament at this time last year, the Fire Brigade has improved its resources by acquiring more specialist equipment. These have included a new vehicle for the Fire Safety Department, a fire simulator as well as recording equipment with DVD backup to record all emergency calls. Major works have also been carried out to the building on Red Sands Road where the Fire Brigade is based. These have included repairs and maintenance to the Station's roof, together with the upgrading of existing facilities such as the refurbishment

of toilets and some of the corridor areas. When these works have been completed, the Station's upper floor will be refurbished. I will conclude this part of my contribution by paying tribute to the team of Fire Fighters, those who support them and to their officer management team for their high professional standards, their dedication to their work and their continuing efforts to make Gibraltar a safer place to live in for the whole of the population.

Mr Speaker, I now turn to our health services and the Gibraltar Health Authority. To put it in a nutshell, the reality is that the GHA provides a very high standard of health care and that this is appreciated by the majority of people in Gibraltar. It provides diagnostic and clinical services such as CT scanning and dialysis which comparable communities of our size elsewhere in the world do not have available to them on their own doorstep. Instead they have to travel elsewhere, as we used to do in the past, to access these services. It is absolutely clear to the non-trying-to-criticise observer, that in the last 11 years, the GHA has continued to expand and improve overall the health care it provides. All in all, it must be remembered, at no cost to the patient. The overall statistics of the service provided by GHA are quite staggering. I will provide some headline figures only. Members will no doubt be surprised to hear that during the calendar year 2006 there were no less than 288,000 patient contacts with the health services, 160,000 out of this total were persons attending the Primary Care Centre. Not bad for a population of 30,000 people. I am advised by the Government's statistics office that the population was estimated as at 1st January this year, to be 28,875. This means, surprising as it may seem, that statistically, every man, woman and child in Gibraltar each individually sought medical or clinical attention ten times during last year, at least in statistical theory. It may prove a number of things that I intend to go a bit deeper into. The point I am trying to make is the number of people who attend and seek medical and clinical services, 288,000 times a year. It is worthwhile in that context to highlight that there have been only 74 formal complaints lodged against GHA during this same period. This is the reality of the standard of healthcare

service provided by the GHA. Out of these 288,000 patients who attended or were treated either in St Bernard's Hospital, in the Primary Care Centre, in KGV or in the community, only a small number of people, 0.026 per cent, lodged a formal complaint. Furthermore, during that same period, in other words the year 2006, there were 416 tangible expressions of appreciation and gratitude from patients to the GHA, or to individuals within the GHA in the form of letters, cards or other forms of appreciation. There are all forms of appreciation but these do not include the verbal ones. If I included the verbal ones the number would be a lot higher. I urge Opposition Members to keep those figures in mind. In this context, I have thought that it would be useful to start by putting on the record outline details of the expansion and improvements to our health services, as well as to GHA's human and material resources, since the GSD came into Government in 1996. I will then continue my contribution by informing this Parliament about the new health care services that will now be introduced and the expansion or improvements to existing services which the Government has already brought into effect. I will end by giving Members more details about these new health services, some of which the Chief Minister has already announced, and which GHA will start introducing during this financial year as part of its three year plan for the future of health care in Gibraltar. These new services are far reaching and will have considerable impact on our community and therefore I will outline them at this stage and then give more detail later on in my contribution.

The new services to be introduced or existing services to be improved, are as follows:

1. The sponsored patients programme will be improved by substantially increasing the financial support provided to patients and their escorts as well as by extending the programme so that many people who are at present excluded will in future qualify for financial assistance.

2. There will be bold and innovative initiatives in cancer care management. We will introduce a mammography breast screening programme for all women over the age of 40. We will reform the cervical cancer screening programme and double the resources for palliative care. The GHA will introduce cancer follow-up clinics, which will include chemotherapy treatment, for cancer patients here in Gibraltar. This will considerably reduce the number of people who currently need to travel to UK or Spain for cancer follow-up treatment.

3. The GHA will recruit a multidisciplinary team of doctors, nurses and support staff to provide specialised treatment to the many people in our community who suffer from the chronic disease of diabetes. This silent killer, which globally affects about 20 per cent of persons over 65 can cause blindness, kidney failure, stroke, heart attacks and even the need for amputation.

4. The GHA will institute a Low Vision Clinic and will implement a programme of mobility training to provide better treatment for another vulnerable group in our community, that is, people with low vision.

5. The GHA will be recruiting additional human resources to considerably increase access to its dental and orthodontic services. This will include the recruitment of an additional Orthodontist, an additional Dental Officer and a Dental Nurse.

6. In consultation with its General Practitioners, the GHA will restructure the primary care service into three separate GP teams. Registries of patients with chronic diseases such as diabetes, coronary artery disease, high blood pressure, asthma, heart failure and depression will be compiled and the components of the primary care strategy for managing such chronic diseases will now get under way.

7. A new chiropody service, deliberately targeted at those for whom it is medically necessary and therefore who most need it, will be introduced. There will be three levels of access. An outpatient clinic at the Primary Care Centre, a bedside service for hospital inpatients and a service at home for elderly persons over 65 who are housebound.

8. The GHA will continue to make improvements in the quality of care and service by substantial investment in electronic health technology. This will include its appointment systems, its communications between primary and secondary care and especially its management of patients' records. The electronic health care technology system should be fully implemented within 18 months of initiation and by that time GHA will be moving forward into a paperless environment.

Mr Speaker, history shows without a doubt that in the last 11 years healthcare facilities and services have been greatly improved because this Government has demonstrably put its money where its mouth is and has kept its promises to review, expand and improve healthcare services. As a comparison, under the GSLP, expenditure on health reached about £20 million a year in 1996 or just before. Under this Government and by the end of this financial year expenditure will have almost tripled to about £60 million a year. These figures speak for themselves and they do not include the capital expenditure on the cost of the new hospital. This increase in expenditure is in line with the GSD Government philosophy of providing the best healthcare system that Gibraltar can reasonably afford.

Let us take a closer look at the health strategy of the GSD in Government and at the increases in staff, the enlargement of services, the improvement in healthcare that the GHA is bringing about. This health strategy was conceived in three phases, all three of which are still on-going. The first phase is concentrating on primary care, the second phase on secondary care and the third phase is targeting our mental health services.

The first phase of the Government's health strategy, which concentrated as I have said on primary care and started with the move out of the cramped and inadequate conditions of the old building at Casemates and the construction of the new Primary Care Centre in the ICC. It continued with the improvement of primary care services and the increase in the number of doctors. When we took office, there were only 11 doctors in primary care. This Government have increased the number employed to date and it is now 17 General Practitioners, and in addition has added three new nurse practitioner posts, an Optometrist and an Orthoptist. New Diabetes and Asthma Clinics were introduced. The Midwifery Community Service and the Macmillan Nurse Hospice at Home were both new services introduced by this Government. There have been many other improvements in primary care since 1996 and many more are currently taking place. For example, GPs and all Primary Care Centre clinics have been provided with computers to access GHA clinical and administrative systems. New information systems have been introduced so that as soon as blood results are verified in the laboratory, they are simultaneously available at the GP's computer terminal. In the near future, scan and x-ray results will be as speedily available to doctors as blood results already are. This project is already at the pilot stage and is available in A&E, ITU and the Orthopaedic Clinics. Another example, the Front Desk computerised system of appointments scheduling has been extended to facilitate the patient referral process throughout the GHA with the dental service being added as I speak. A new primary care strategy is being implemented which will result in the addition, or expansion, of psychology, counselling, physiotherapy, clinical pharmacy and nurse practitioner services. Not only have we expanded the traditional GP services but we have started offering multidisciplinary services for children, for adults with diabetes and for the women of Gibraltar. The Primary Care Centre has also commenced offering multidisciplinary dermatology services and has eliminated the waiting list in dermatology. The UK visiting Consultant Dermatologist works very closely with a Primary Care Centre GP and the Primary Care Centre Dermatology Nurse, together they provide a very comprehensive range of

services. Later in this speech, I will provide details of these new primary care services that the Government are planning to introduce.

Before analysing the improvements in secondary care we must not forget, and let me remind this Parliament, of three major changes brought about by this Government since 1996 and which affect our health services overall. The first of these is the introduction of the emergency ambulance service. It must be remembered that back in 1996 ambulances were manned by the Royal Gibraltar Police who did not have the much higher level of training which was subsequently provided to the professional full time crews by St John Ambulance Association when they were contracted by the Government to start the new emergency ambulance service in 1999. As hon Members will be aware, this emergency ambulance service was transferred from St John to the GHA on the 1st June this year. I would like to take this opportunity to pay tribute to the St John Ambulance Association which undertook the emergency ambulance and patient transfer service under contract to the Government on a non profit basis. During the last eight years, St John has developed and evolved the service to the standard that Gibraltar has come to expect and enjoy today. These services and the demand for them have increased year on year and St John's ability to adapt is a testimony to the professionalism with which these services have been managed and delivered. On behalf of the Government and, indeed, on behalf of everybody in Gibraltar, I would like once again to express appreciation and gratitude to the St John Ambulance Association for having the courage to take on the responsibility and for the excellent service it has always provided over the period of the contract. The transfer of the emergency ambulance service means that the GHA is now directly responsible for pre-hospital care before arrival at the Accident & Emergency Department in St Bernard's Hospital, thus ensuring even greater continuity and accountability of service to the acutely ill and injured patient. I would remind Opposition Members, that the people manning the ambulance service, the management of it and the actual crews and those manning the patient transfer service, remain the same crews.

GHA have effected the transfer without making any redundancies and taking over exactly the same people. So, I confidently expect that the high level of service that was provided in the past will continue to be provided in the future by the same people who had been providing it up to now. Over the next few months the GHA will be taking delivery of new ambulances. All in all, this is a very significant enhancement to the emergency ambulance service.

The second overall issue I want to highlight, is the introduction of a statutory transparent and efficient complaints procedure which enables patients to make complaints against the GHA, its management, its systems or its staff when they are not satisfied with the service provided. Such a complaints procedure never existed in the past. It is now administered and run by a person dedicated solely to it, it includes provisions for the complainant to be able to refer the complaint to an independent review panel appointed by the Ombudsman if the investigation and explanations by the GHA have not been to the complainant's satisfaction. I am very pleased to report, that the procedure is working extremely well.

The third and overall issue has been the successful abolition by the Government of private practice by GHA clinicians on GHA premises during contracted hours. For a long time there had been a public perception that private practice within the GHA was being used to manipulate and maintain waiting lists and there was a public outcry at the time of the last Election that it should be terminated. The GSD made an electoral manifesto commitment to abolish private practice and this was done by Government with effect from December 2004.

Mr Speaker, the improvements in secondary care, including the new hospital, are the second phase of the GSD's health strategy. Despite unsuccessful attempts by Opposition Members to decry the new hospital, in which the Government provided almost £5 million of additional new medical equipment, the reality is that the conversion of the building at Europort into a hospital has been a great success. That is so and it is there for

all to see. The hospital continues to attract, whatever Opposition Members may say in their attempts to discredit it, the hospital continues to attract favourable comments, not only from patients and their families, but also from visiting health professionals who compare it very favourably with private hospitals of the highest standards in their own countries. Let me remind Opposition Members that this facility, this new hospital, is three times the size of the old hospital, where we had only one functional operating theatre whereas we now have five. We also have services such as CT scanning, mammography and dialysis which, as I said earlier but it is worth repeating, many communities of our size only dream of and which are usually only available to them in larger centres elsewhere. Going on to actual staffing, the total number of Consultant Doctors employed by the GHA has more than doubled from 11 in 1996 to the current figure of 24. Two additional fully trained Orthopaedic Surgeons have been recruited and are now at work on the elimination of waiting lists in clinics and theatres. The remaining few weeks of waiting lists for knee replacement procedures and for hip replacement surgery, will be eliminated and scheduling for procedures will soon be introduced. We are now offering new surgical procedures in orthopaedic surgery, which were previously only available to patients outside Gibraltar. These new procedures of hip surfacing and knee ligament repairs are now being performed. A long, long way away from the health care system we inherited back in 1996. We now have a Consultant led, in-house intensive care providing an in-house service 24 x 7. The 24-hour on site support for the ITU now provided allows for immediate intensive care response to the very ill and for resuscitation cases. It has already provided not only for fewer emergency transfers or referrals to Spain and the UK, but also for a better tangibly, statistically proved better survival rate for those in intensive care. It has achieved world class resuscitation results for hospital care. It is also worthwhile taking a moment to compare overall current levels in the GHA staffing complement to what they were before 1996 when Opposition Members were in Government. The total staffing complement, including medical, clinical, technical and support staff is now 793. In 1996 it was 428. The GHA now employs 61

doctors and dentists. In 1996 the number was 33. A total of 292 nurses were employed by GHA in 1996, the total number has now risen to 374 despite a reduction of 15 posts which were moved to the Elderly Care Agency to help to care for the hospital patients who were transferred to Mount Alvernia when St Bernard's moved into Europort. The GHA is now supported by 125 clerical and administrative staff. The 1996 figure, under the Opposition Members in Government, was 42. In 1996 the GHA employed 37 allied health professionals and laboratory staff. Today, the number has now risen to 59. I could go on but I think the point has been made. But I hear the Opposition Members and maybe those listening asking themselves, what difference, if any, have all these extra doctors and nurses and this massive injection of capital by the Government, what difference is it actually making to our health service and how is it affecting our patients? Let us have a look and see how it has affected. First, let us look at the introduction of new services and the extension of existing ones. In particular, at CT scanning, mammography and dialysis. In fact, we are now doing double the number of scans here in Gibraltar compared to what we used to do when we sent patients to Spain. There has been a 100 per cent increase in other radiological procedures. We have extended the mammography services by creating a one-stop Breast Clinic where patients diagnosed with breast lumps in the Primary Care Centre are seen without delay in a consultation process which includes mammography, ultrasound, and assessment by a Consultant Surgeon and a Consultation Radiologist and implementation of the care plan all on the same day. In 2006, we reduced the number of emergency transfers to UK and Spain by 50 per cent because we are now able to treat these emergencies locally. This reduction has been sustained to date in 2007. As at today, we have increased the number of operations and other activities in the theatres by 39 per cent since 2005 and the number of patients receiving total joint replacements, like knees and hips, has increased tenfold. We have introduced new operating procedures not previously carried out in Gibraltar such as keyhole surgery procedures and ultrasound-guided operations. We are reducing, and are continuing to reduce waiting times. For example, there has been

a 44 per cent reduction in waiting lists for clinics in St. Bernard's and a 34 per cent reduction in waiting lists for operating theatre procedures. The eight-month waiting lists that used to exist for community occupational therapy has been reduced to two months and the four-month waiting list for physiotherapy has been eliminated. Waiting time for major joint replacement used to be up to seven years and has now been reduced to only a couple of months. In 2004 the waiting list for cataract surgery was completely eliminated. But statistics are statistics important as they are, but the most important thing is that our standards of healthcare continue to rise as a direct result of the improved treatment protocols, the massive focus on education and training of medical and nursing staff at all levels and the systematic correction of identified deficiencies in clinical care. This has been supported further by two new nursing posts, that is, a second Infection Control Officer and a Practice Development Nurse, who will both work with clinicians to develop and enhance research based practice in controlling hospital acquired infections and other fundamentals of care. We now have a doctor present in the Accident & Emergency Department supported by a Consultant Anaesthetist in the hospital on a 24-hour basis every single day of the year. A far cry to what St Bernard's used to be in the days when Opposition Members were in Government, when there was one Senior House Officer available throughout the whole of the hospital and sometimes used to take a long time to respond to A&E requirements. We have introduced a medical early warning system which is an assessment tool for which frontline staff, mainly in A&E, have been trained, which enables them to detect early symptoms of life threatening conditions and a clear protocol for securing specialist expertise at all hours of the day or night. This means, in effect, that life saving treatments can be instigated more quickly by those with the most specialist expertise. As a direct consequence, the number of cardiac arrests in hospital patients has been reduced by 80 per cent since the introduction of this early warning system. Mr Speaker, there are two clear independent indicators of such progress. First, is the fact that in the periods 1st January to 31st May in each of the last three years, so as to be able to compare like for

like, in 2005 there were 51 formal complaints, in 2006 the number had reduced to 41 and this year, up to that same date cut-off of 31st May, the number has so far reduced to 23. So it has gone down from 51 in 2005, to 41 in 2006 to 23 this year. Secondly, is the complimentary report received last November from an independent review team, which says in its introduction: "The over-riding finding of this review is of a major sea change in the culture of the GHA, with much greater teamwork, real energy and desire for excellence. The team found a multitude of staff-led initiatives designed to create greater patient safety and patient-centred care."

Mr Speaker, I intend to continue by analysing the third phase of development, that of our mental health services, on which GHA is now focusing on important aspects of that development. I will now detail specific innovations, improvements and changes that the GHA has implemented in our mental health services. These have included increases in staffing levels, improvements in clinical practices, the introduction of a leadership system and a new mental health strategy. By far the greatest improvement envisaged to our mental health services will be the construction of a new, purpose built mental health facility to replace the KGV Hospital. This will see the realization of the standards of mental health care that Gibraltar deserves and expects the GHA to provide. The Government have accepted the GHA's strategy for mental health services, which was developed through consultation with both staff and patients. This document defines the blueprint for the direction and growth of the service and will be underpinned with the commissioning of the new mental health facility. Additional to this facility, there will be a new site for the Community Mental Health Centre at Coaling Island. The GHA also plans to provide expanded mental health care services in the Primary Care Centre. Pending the construction of this new mental health facility, the GHA has already implemented an interim plan to put in place many improvements in the existing KGV facility along with changes in caring and in clinical practice which have improved both the standard of care and the safety of the clinical environment at the KGV site. I will highlight six specific areas.

First, there have been a number of key changes carried out in the fire safety programme which include a revised fire evacuation plan of KGV hospital and a clinical risk strategy for all patients in care. Fire safety training was provided for staff and the plan is to continue to offer the fire safety programme run by the Gibraltar Fire Brigade as a refresher for trained staff and for each new staff member. The on-going facility maintenance programme has been given greater impetus and additional fire safety requirements, such as partitioning fire retardant doors, have been put in place. The City Fire Brigade has confirmed that the recommendations in its last fire safety report on KGV have been completed to their satisfaction. Secondly, the smoking policy has been extensively reviewed and updated. Now smoking is only permitted in designated areas and then closely monitored by mental health staff personnel. Thirdly, since December 2004, 11 additional clinical posts will have been added to the staffing in mental health services by the end of this year. At the request of the GHA, two new posts, an Assistant Director of Nursing for Mental Health and a Director of Mental Health were created to provide additional senior managerial and clinical expertise. These have strengthened management and leadership and have raised clinical standards in the unit. Ward Managers now closely monitor staffing levels. Contingencies have been developed to cover staff shortages in the event of unavoidable short-term sickness, and this is supported by the staff's willingness to work flexibly and cover additional shifts at short notice if required. A GHA wide strategy to reduce sickness absence has been put into place with improvements noted within the KGV staff. Members of staff have been involved in helping to identify the reasons for high sickness levels and are tackling this, together with the Human Resources Department. The establishment of a nurse bank for emergencies has been introduced for use when all other options for cover have been exhausted. An additional Charge Nurse post has been added to further strengthen ward leadership in the unit. There is now a minimum of seven to eight staff rostered on duty at night, normally four Registered Nurses to cover both wards and an additional three or four Nursing Assistants on nights, depending on the workload. The appointment of a second Consultant

Psychiatrist has had a dramatic effect on clinical governance and facilitated a greater range of mental health services and clinics to meet the health needs of the community, especially for children and the elderly. A further two Registered Mental Nurses were added to the staffing last year with a further three more approved and planned to be recruited shortly. This year's staffing complement will be further enhanced to confirm the second full time Psychiatrist, an additional full time Occupational Therapist, another full time Psychologist and contracted Counsellors. Fourthly, the priorities for the new mental health management team have been to work on developing the standards of clinical practice, to focus on staff training and development and to implement the new human resource guidelines on sickness and absence management. Pivotal in these changes has been the role of the Sister Charge Nurses, without whose commitment and professionalism, many of the significant improvements in patient care that have been achieved in the last two years would not have been possible. Meal breaks at night are phased and staff observation levels and allocation of staff are determined by the Registered Mental Nurse in charge of the ward. The hourly observation checks are now documented and any necessary increases in the frequency of observation implemented and documented. The GHA is now using evidence from research and studies to inform and revise clinical practices. Guidelines from the Royal College of Nursing, the Royal College of Psychiatrists, the British Society of Psychologists and the National Institute for Clinical Excellence are examples of this use. March 2007 saw the introduction of a seven-day a week activities programme tailored to the current mental health service patients. There is a wide range of diverse activities, which include recreational, social and entertainment aspects and are aimed at meeting a wide range of clients' needs. This initiative was led and delivered by the staff within KGV and it is due to their commitment, dedication and enthusiasm that it has proved such a success. Feedback from service users has been extremely positive, indicating this has a positive benefit not only in therapeutic terms but also in enhancing patients' quality of life. The GHA has prioritised new funding to support this programme over the next year. The

activities' centre and structure is developing as a blueprint for future day hospital services, as many key lessons have been learnt regarding programme planning and implementation. The mental health service has further developed its network with key community groups in order to reduce the stigma of mental illness, to improve service user accessibility and to include the input of community groups into service provision. The policy with respect to restraint chairs has been fully revised and now fully complies with the Royal College of Nursing Guidelines. Patients in restraint protocols will now have an individualised Occupational Therapist assessment carried out to determine the best option, and, with the informed consent of the patient or the family, the appropriate option is selected and documented in the patient's notes. Management is working with the mental health services team and, in conjunction with those involved in the care of the elderly elsewhere, is reviewing the system of care for demented patients and will soon make recommendations to Government in this respect.

I have analysed in some detail the tremendous improvements and considerable progress that has been made in primary care, in secondary care and in our mental health services over the period that this Government has been in office. Mr. Speaker this Government is not prepared to stop at this stage and be content with the great benefits that our people already currently enjoy in health care, but the Government are determined to continue to aim to achieve further improvements. There is still much to be done to achieve for our people the safest, most efficient and affordable range of services as close to home as possible. This requires continuous improvement in existing services, repatriation of services to Gibraltar and the provision of high quality options in Spain as well as in the UK. The responsibility for achieving this lies on the shoulders of GHA's executive senior management team, the members of which each head one of the directorates which make up GHA's management hierarchy. These directorates are: (1) operations, which includes the allied health professions; (2) the nursing and patient services; (3) the medical directorate; (4) the human resources directorate which includes including laboratory services; and (5)

the finance and information management and technology directorate. The GHA Chief Executive has overall management responsibility for the directorates and the work that they carry out. I will now analyse further the progress in each of the directorates within the parameters of the three fundamental objectives which form the foundation of GHA's improvement plan. These objectives are: (1) improving clinical outcomes; (2) improving corporate performance; and (3) building leadership capacity.

Turning first to the operations directorate and, in particular, to the allied health professions, the radiology service has undergone tremendous change over the past two years since the opening of the new hospital. The change has included a huge increase in the number of examinations and the consequential substantial increase in the number of cases now being reported. Our two Radiologists will report on almost 24,000 x-rays, scan investigations and treatments during this current year, an increase of 38 per cent over last year. This last year saw the delivery of a new ultrasound machine and plans are in place for the further upgrade of the CT scan, of the mammography unit and of the reporting equipment. This is in response to the tremendous increase in activity. The Picture Archive Computerised System (PACS) has, as I promised previously, been now extended to A&E, ITU and Orthopaedics. The progress in radiology is mirrored in the other allied health professional services. The speech and language therapy group have seen a 50 per cent increase in inpatient referrals over this past year. Audiology has had a further 7 per cent increase in hearing aid usage, while the Nutrition and Dietetics Department have recorded a 30 per cent increase in activity over the past six years. Working together with the Optometrist, the Ophthalmic Nurses and the Orthoptist a joint clinic has been initiated to reduce the waiting times for diabetic screening. In occupational therapy the team has worked very hard to reduce the community waiting lists, from eight months to two months and has completely eliminated the waiting list for inpatient consultations. The Physiotherapy Department has had a very significant increase in workload arising out of the completion of the knee

initiative, the increase in the number of Orthopaedic Surgeons to three and elimination of the physiotherapy four-month waiting list. The reduction of the waiting list in the Orthopaedic Department has resulted in further pressure on the Physiotherapy Department which has been successfully managed. Mr Speaker, managing facilities and estates in the four locations occupied by GHA, that is, St Bernard's, KGV, the Primary Care Centre and the Coaling Island mental health facility, requires large investment and structured maintenance. Energy conservation, new equipment installation and the completion of the asset register were the prime areas of work at the secondary care site. On-going maintenance refurbishment and painting were the focus at the mental health and primary care sites. The figures speak for themselves. To do this work, GHA now employs 152 industrial staff, which includes domestics and other technical grades to carry out this work, this figure of 152 is in contrast to 91 people who were employed in 1996 when we took over. The Patients Records Department at the time of the move into the Europort hospital had a performance record of availability of notes of only 60 per cent. In other words, if one went in for a clinic, there was a one in three chance that one's notes would not be found. Since the move to the new hospital, together with the introduction of bar-coding and file tracking, the performance rate of this Department has improved considerably and is now running at 96 per cent. In addition, this improvement has taken place against an increase in outpatient attendances to 2900 monthly, an increase of 61 per cent since 2005.

In the nursing and patient services directorate, the work has focused on the development and implementation of the nursing strategy. This has incorporated a comprehensive review of nursing and the challenges it faces. The essential elements are as follows: (1) the review of the nursing skill mix with the first phase for implementation in the mental health strategy; (2) proposals for the development of a revised nursing management structure with an effective succession plan for all leadership positions; (3) renewal of the role to be played by the School of Health Studies in undergraduate and postgraduate nursing

education; (4) further developing the role of nursing in primary care through nurse led clinics; (5) the introduction of new shift patterns in some areas which has led to improved continuity of care and has been evaluated very positively by staff; (6) an extremely successful nursing conference attended by 180 GHA nursing staff, which provided the opportunity for sharing of 70 innovative projects aimed at improving patient care, led and delivered by nurses and allied health professionals; and lastly, (7) improvement in evidence based clinical practice through the implementation of continuing professional development programmes, in-house training in clinical practice such as Manchester Triage in A&E, haemofiltration in ITU, epidural analgesia in obstetrics, wound management and nutritional assessment on the wards. Training for staff in the Tidal Model of patient assessments, in de-escalation when dealing with aggressive behaviour and in physical constraint techniques which are compliant with the best practice in mental health nursing and in resuscitation training for all.

Mr Speaker, the information management section of the finance & technology directorate has been busy planning and delivering several healthcare milestones which include the following: laboratory results are now being delivered electronically to requesters instantly at time of validation by the biomedical scientists, eliminating what used to be up to a fortnight's delay; Radiology reporting and imaging is already being instantly delivered in the pilot project and is accessible to some clinicians throughout the GHA, it will eventually eliminate, what in the past has been, up to six weeks delay; the scheduling of appointments, services and diagnostic procedures can now be done at a single point throughout GHA and if so developed, the system is capable of allowing patients to schedule their own appointments; the electronic prescribing system which is currently in development will allow for much safer and more accountable prescribing and dispensing of prescriptions in Gibraltar; the enhancing of patient safety by taking advantage of all the possibilities afforded by the introduction of the unique patient identifier and thus avoiding the possibility of mistaken identification of records of people with the same name or those

who use different versions of their names. Not to be outdone, the financial management section of this directorate has worked very hard to implement the computerised salaries system. The role of the finance team has expanded and is providing much needed support to all managers who, in turn, are improving financial accountability throughout the GHA. The team is looking forward to introducing a new business administration system to further enhance management control across the organisation. The finance directorate has also been instrumental in the development of the Gibraltar and European Health Insurance Cards (EHIC); in developing many policies that apply across all directorates, advising on matters of policy and the application of local and EU legislation. In addition, the directorate has been involved, via its consortium arrangements with Jersey and Guernsey, in the negotiation of service level agreements with trusts who receive our patients in the United Kingdom. It has also organised and hosted inter-island seminars. In 2003/2004 the directorate commissioned an on-going detailed study of activity relating to referral of our sponsored patients. Jersey, Guernsey and the Isle of Man subsequently commissioned a similar study and the combined information result is now being used for benchmarking between the jurisdictions.

Building on the traditional strength in the previous Personnel Department there has been a considerable effort put into human resource development in that directorate. The GHA has negotiated a new management development agreement with Durham University and currently has 40 people engaged in development as managers. Of the four GHA Masters graduates in the Durham programme, three graduated with distinction. Training has been provided by the GHA in continuing professional development and a number of other skill areas including conflict management, sickness guidance and disciplinary proceedings. The human resources directorate developed and implemented a very successful GHA awards programme and is continuing to assist in the implementation of all HR functions, including more effective labour relations, staff communications, and health and safety programmes. It has also launched the "Investors in People Programme" for the GHA.

The directorate supported a tremendous recruitment effort in which Consultants, doctors, nurses and allied health professionals and other grades such as cooks, domestics and clerks have been recruited in many aspects of caring and service within the GHA. This directorate is also overseeing the further development of the School of Health Studies and will embark on the development of a strategy of self sufficiency for health care workers in Gibraltar. Under this directorate the laboratory has continued its development on its road to accreditation. Not only is it achieving continuous improvement in quality standards, the laboratory is continually adding new tests to avoid the delays and expense of sending tests away to the UK for analysis.

Mr Speaker, in the medical directorate 2006 saw the appointment of a new Medical Director who received this arduous task from the Chief Executive who had held the post on an interim basis. The new Medical Director has been busy with the successful negotiation of the new GP contract and many other elements of clinical governance. In conjunction with the Director of Nursing, he oversaw the reduction of waiting lists as well as another orthopaedic initiative which resulted in the completion of 64 total joint procedures, in addition to the 84 previously carried out under the first initiative. This project had the additional benefit of providing additional training and expertise for local staff. It was a remarkable team effort, which thanks to the commitment and enthusiasm of the clinical and support staff involved, led to it being completed over a short time frame. Along with the assimilation of the new consultants into the GHA, the Medical Director oversaw the continued development of the clinical audit programme and the clinical education programmes. A number of consultants completed their peer review assessments and are now engaged in their continuing professional programmes.

I will now turn, as I promised at the beginning, to the GHA's three-year plan which the Government had asked the GHA to prepare and implement, to continue to develop and improve Gibraltar's health system beyond the present and into the future.

Mr Speaker, I will now give Members more details about the new health care services being introduced as part of this three-year plan and to the expansion and improvements to existing services, which will start in this financial year. First, the sponsored patients programme. As is well known, the GHA offers primary and secondary care to patients here in Gibraltar, but patients requiring tertiary care need to be referred away from Gibraltar and they are given the choice, whenever possible, for treatment either in UK or in Spain. It is worth noting, that in the last three years GHA has made an average of 2002 referrals of patients each year for tertiary treatment away from Gibraltar. So that is 2000 of our people who travel away from Gibraltar for treatment. Under the present sponsored patients scheme the GHA currently pays, in full, the expenses of the patient and the escort in full in respect of the following: (1) all hospital fees; (2) the cost of flights; (3) taxi fares where medically authorised because of a medical condition; (4) travel expenses by public transport; (5) prescriptions; (6) a petrol allowance for Spain. These arrangements will continue to be paid in full and are not affected by the changes that are being made to the sponsored patients scheme. The GHA also pays an allowance to patients and their escorts. This allowance depends on: (1) the type of accommodation used; (2) whether the patient is admitted into hospital; (3) an income and expenses assessment. Currently the maximum allowance payable to the escort and the patient, while they are not an in patient, is a maximum of £266 per week each to each of them, to assist with their expenses when staying in an hotel or other rented accommodation. This maximum allowance is reduced to £98 per week each if they stay with friends or relatives or in Calpe House in London. A patient who is hospitalised is paid an allowance of £5 per day during his stay in hospital. Under the current sponsored patients scheme the total household income of the patient and escort, and any other person living in the household is taken into account when calculating the maximum allowance payable. As the Chief Minister announced yesterday, the Government have decided to carry out a fundamental, in depth review of the current sponsored patients scheme. In the meantime, and as an interim measure, the Government have decided to make substantial

increases to the amounts being paid to patients and their escorts. The following changes will be made to the scheme. The current method of assessing the maximum allowance payable will be changed to eliminate the concept of the household income. At present, as I said before, if there are other members of the family living in the same household as the patient or as the escort if the escort lives separately, their income is also taken into account when assessing this maximum allowance. In future, only the combined total income of the patient and spouse or partner will be taken into account. Where the escort is not the spouse or partner of the patient or where the escort lives in a separate household, the combined total income of the escort and his or her spouse or partner will only be taken into account. As I said previously, the maximum allowance payable to patient and escort, is currently £266 or £98 per week. This will be substantially increased by 50 per cent to a maximum of £400 and £147 per week. The child allowances used to assess the maximum allowance payable will be increased by 100 per cent. The in patient allowance will be increased from £35 to £52 per week. In future, the journey on initial arrival and final departure to or from, either the hospital or the hotel, and either the airport or the train station, will be by booked taxi and not by public transport. I have had many representations from patients and escorts telling me that the amounts currently being payable before these increases come into effect, were in need of revision as they were outdated. I am confident that these increases, which the Chief Minister announced and which I have just reviewed in greater detail, will go a very long way towards satisfying the expectations of those who wanted the sponsored patients programme improved, pending the full and in-depth review that we will now continue to carry out.

I will now continue with the other new services. First, as I have just described, is the sponsored patients programme. The second is the changes to the cancer service. Cancer, Mr Speaker is a disease that directly or indirectly touches just about every family in Gibraltar. Today, with modern detection systems, newer treatments and better palliative care, the opportunities for

a better experience for all affected by this difficult disease have improved considerably. I am therefore very pleased to announce a bold and innovative initiative in cancer care management through which GHA will enter into a process to provide here in Gibraltar safe chemotherapy treatment for as many cancer categories as possible. Secondly, in terms of new cancer services, the GHA will explore how to reform the cervical cancer screening programme and will initiate a breast screening programme. This breast screening programme will see the upgrade of the mammography equipment to screening standard and the addition to the staff of a third Radiologist, a specialist mammography Radiographer and a breast care Nurse. I am also very pleased to announce that it is intended that the screening criteria for this breast screening programme will be wider than in the UK, and that this service will provide a regular scheduled breast screening for all women over the age of 40, as is the case in some northern European countries and not just over the age of 50 as is the case in the UK. I would add that I was privileged to inaugurate the new cancer support charity yesterday evening, where these innovations were already known because they had been announced by the Chief Minister, and it was educating to see how pleased and the reaction from many people present at that inauguration, many of whom were women who have been affected by breast cancer in one way or another, either directly or indirectly, and with the warmth and the appreciation that these improvements that I have just announced to cancer services were greeted by all those present. The new screening and chemotherapy programmes, I have just described, will improve the detection and outcomes for many patients. In tandem, the GHA also needs to make further investments in palliative care. I am pleased to announce that the GHA three-year plan includes for a doubling of the resources currently in palliative care. To continue with cancer care, many Gibraltarians come up to me in Main Street and tell me in my weekly political surgery in my office, and complain about the hardship, financial and otherwise, of continuously going to the UK for cancer follow up clinics. I am, therefore very pleased to announce, that the GHA management, as I speak, is currently in discussions in London with the Royal Marsden Hospital to

provide the necessary follow-up clinics here in Gibraltar. This is only now possible, it would not have been possible in the past, is only now possible because of the new expertise in radiology, pathology and surgery which is now available in the GHA. Therefore, the number of people who will need to travel to the UK for check ups for breast disease and other cancer treatments, will fall considerably when the same quality of service that is provided there is provided in the future in Gibraltar.

From cancer let me now turn to another chronic disease – diabetes – which is often a silent killer, particularly in those over the age of 65. This disease affects, on a global basis, 20 per cent of those over the age of 65 and can cause blindness, kidney failure, stroke, heart attacks and even the need for amputations. With the vital support of the modern electronic health technology, which I will mention in a moment and using strategies such as a registry of patients, proper screening and comprehensive follow up, the GHA will embark on the recruitment of a multidisciplinary team of doctors, nurses and support staff to improve the care for both children and adults with this disease.

I now come to another vulnerable group in our community. These are people with low vision, who have had poor access to vital services in the past. There are three issues for this group. The first is timely access to follow up for those with diabetes, the second is access to special services for those who need specific aids and the third is access to appropriate mobility training. In other words, the use of the white cane, for those who have recently become poor sighted and have difficulty in moving around. I am extremely pleased to announce that the time for provision of these services has now come. The GHA will be recruiting another Optometrist which will ensure that the Eye Department team can now provide timely access for diabetes follow up, and as well, will institute a Low Vision Clinic and will implement a programme of mobility training for those who are poor sighted, to enable them to move around more easily by using a white cane. Furthermore, GHA will be encouraging

those who are of low vision to register to ensure that they can be appropriately supported in their care needs.

Mr Speaker, for a number of years now there have been access problems for children to dental services and to orthodontic services. Following an examination of the service by GHA management, I am also pleased to announce the recruitment to the dental service of an additional Orthodontist, a Dental Officer and a Dental Nurse. This will ensure that access to dental, and especially orthodontic services, will cease to be a problem. With recruitment getting under way shortly, a significant improvement in access will be experienced by the end of the financial year.

The eighth improvement of new services to be announced, affects the primary care where much of the core of the primary care strategy has already been implemented and the components of managing chronic diseases will now get under way. The GHA management team has completed a “breaking the mould” process of consultation with its General Practitioners and this will result in improved standards of access to the primary care services, which will be restructured into three separate GP teams. Registries of patients with chronic diseases such as diabetes, coronary artery disease, high blood pressure, asthma, heart failure and depression will be compiled. In addition, the GHA is examining a new management approach in order to help those with multiple or rare chronic diseases cope more effectively with their complex illnesses.

The ninth heading is chiropody, for which I have also been under pressure from the community. I am pleased to announce, well not yet to announce let us just note that a GHA chiropody service at an appropriate level has never ever been available under the Group Practice Medical Scheme in Gibraltar. That is up to now, because GHA will now introduce a comprehensive chiropody service, which will be deliberately and intentionally targeted at those for whom it is medically necessary and, therefore, for those who most need it. The chiropody service will be aimed at people with conditions like foot deformities, diabetes, neurological disorders and circulatory disorders. This

new chiropody service will be provided on three levels of access. The first level will be a chiropody outpatient clinic with entry only through a GP's recommendation for medically necessary treatment. This clinic, obviously, will be in the Primary Care Centre. The second will be a bedside chiropody service for hospital patients only on referral by a hospital Consultant for medically necessary treatment. The third will be a service at home, available only on referral by a GP for medically necessary treatment for elderly persons over the age of 65 who are housebound. The service will be provided by a chiropodist to be recruited by the GHA.

The tenth, affecting care for the elderly. The Government have already announced their intention to refurbish the Mackintosh Wing of the old St. Bernard's Hospital. With our senior citizens surviving much longer, their numbers and their need for care has increased very significantly. I understand the strain that families are under as they attempt to care for their loved ones who are very frail, and particularly those who have a dementia illness compounding their situation. The Government have asked the GHA, in consultation with the Elderly Care Agency, to prepare for Government a care plan that puts the Mackintosh Wing of the old St Bernard's Hospital to best use. There is an increasing number of patients in St. Bernard's Hospital, in KGV and the Elderly Care Agency who would greatly benefit from a specific programme for those in our community with dementia.

Last but by no means least in the order of importance, is the eleventh new service which is the introduction of an electronic health technology and business system. Let Opposition Members not underestimate the great changes that this health technology will bring to health care in Gibraltar. It will be the principal lever that the GHA will use to make further huge improvements to the quality of care and service, and this will be by substantial investment, and it will be substantial, in electronic health technology. Using this technology, the GHA knows that it can further improve its appointment systems, the communication between primary and secondary care and especially the management of its records. The improvement in communication

will prevent cancellation of clinics because of missing notes, will provide immediate access by the GP to information on patients discharged from hospital whether in Spain, the UK, St. Bernard's or KGV and will enable patients to book appointments while actually visiting the doctor. For example, a GP for the Consultant and vice versa. Eventually, I believe the day will come when Gibraltarians will be able to book their own appointments, to make changes to them and even look up their own test results provided securely to them and only to them via the Internet. I see the day coming in Gibraltar when patients and doctors will be able to correspond via e-mail and when an Internet based system will be available to provide an accurate and up to date clinical information for patients and their families. All this, requires a very bold step forward in electronic health technology. I am proud to announce that this bold step has been taken and that a major investment in electronic health technology has been approved in principle by the Government. The new electronic health system should be implemented within 18 months of initiation. At that time, as I said previously, the GHA will already be moving forward in a paperless environment. This investment in electronic health technology is an imaginative and exciting Government policy decision which is the springboard to world class health care. Consultation clinics expanding the use of tele-medicine in which video linkage with major referral centres is used for electronic cancer treatment consultation, progress reports and assessments will become possible and will provide even more ways to help patients receive their care in Gibraltar, rather than travel unnecessarily to the UK or into Spain.

The Government is continuously asking that all its departments, including the GHA, be more accountable for the resources it uses and to ensure that all supplies are available to them when needed. This will require an investment in business administration systems. The implementation of such a system will greatly assist GHA management in their quest for greater efficiency and accountability. The combination of the electronic health technology and business administration systems will allow GHA senior management to assess, on a daily on-going

basis, quality indicators in patient care, supplies management and expenditure management. Given the foundation of the work done to complete the implementation of all of the accepted healthcare development team recommendations, and the implementation of the electronic health technology, the GHA can now look forward to continue to move ahead with more real improvements in scope and range of patient services.

In conclusion, I will return to GHA's three fundamental objectives and I will start with improving of clinical outcomes. In order to keep the clinical teams balanced, the GHA will make further investments in staffing to ensure a smoother development of the newer services already added. In addition to those already mentioned, the principal areas for investment include public health and the allied health professional services. The GHA management has accepted the initial recommendations from the review it commissioned into nursing skill mix, and is currently preparing a detailed workforce plan to enable these to be phased in over an agreed time frame. This will include proposals to enable the GHA to train and develop specialist nurses in mental health, in sick children's nursing, in midwifery and in ITU trained staff and thereby reduce its reliance on overseas contract workers. The GHA is currently in the process of engaging a new partner university to assist the School of Health Studies in meeting this aspiration. By investing in public health, a greater appreciation of the population health demands will be known. Measures such as the impact of smoking can be carefully evaluated and policy adapted to keep risks to a minimum. It is interesting to note that the community's attitude to smoking is changing and Government will consider whether, and, if so how, to further review its smoking policy once the impact on Gibraltar's population is known. The Government will also consider whether to review its health policy in other public health areas such as in cancer incidence and health of the elderly. Additional consultant services, particularly in respirology and in orthopaedics, has meant a greater burden on occupational therapy, speech and language therapy and physiotherapy services. Funding will be provided for assistants in each of

these areas so that the existing professionals can allocate more time to direct patient care. In addition, the pressure on the laboratory and radiology has been considerable, as I said earlier. In response the GHA will be adding to the existing complement of staffing in the Department of Pathology and Radiology, and also adding staffing for more effective pre-assessment service. All this growth cannot be sustained and GHA cannot continue to improve corporate performance, the second of its objectives, without additional support to the critical administrative areas. The GHA will add to its staffing complement in finance, supplies management and occupational health and safety. Health Authorities such as the GHA need to have an assessment against international standards to provide the people of Gibraltar with an assurance of quality care and service. As the GHA is about to embark on achieving this accreditation status, a clinical risk management position will also be created. The third fundamental objective is building leadership capacity and the expansion of the management development programme, which has 40 people in management or supervisory positions within the GHA undergoing formal management training, and is the essential ingredient in improving the level of management competence at all levels within the GHA. This, along with continuing considerable investment in training and development under the auspices of the School of Health Studies, will ensure the on-going development of staff at all levels within the GHA.

I will end by paying tribute to all GHA staff and especially to the team of carers, to those who support them and to the management team. Their work has been outstanding in achieving the great strides to date which I have just spoken about. This Government, as I have said before, is not content to rest on its laurels. With the continuing efforts and support of the staff, the carers and those who support them and the management team, GHA is now ready to progress to seek to provide the people of Gibraltar with on-going expansion and improvements to existing healthcare, as well as the introduction of new health services so that Gibraltar will have the quality of healthcare it deserves and is entitled to have. Thank you.

HON J J HOLLIDAY:

Mr Speaker, my ministerial responsibilities cover Trade and Industry, Employment, Transport, Communications (which includes the Post Office and the Gibraltar Regulatory Authority), the Philatelic Bureau, Tourism, Transport, the Port, and the Maritime Administration. However, before I start to consider each of these areas of responsibility in turn, I would like to record my satisfaction at the very healthy state of our economy and the various Budget measures, announced by the Chief Minister yesterday.

Trade and Industry

The Department of Trade & Industry continues its restructuring programme that commenced last year in order to meet the needs of commerce and employment. The InvestGibraltar Unit, which is the point of contact with the private sector, continues with its important role of providing a "one-stop" shop in assisting local businesses and potential investors. In 2006, a total of 60 start-up companies were assisted by this unit in their endeavours to commence trading in Gibraltar. Traditionally, inward investment proposals have always been given the green carpet treatment. However, given the strong and sustainable state of the Gibraltar economy, and the tremendous potential for local investment, the Government look at encouraging investment opportunities from both within and outside Gibraltar. The InvestGibraltar Unit enjoys a good working relationship with the Gibraltar Chamber of Commerce and the Gibraltar Federation of Small Businesses and dedicates significant time in assisting their members. I am glad that commerce in general is doing well, even though there are sectors, mainly wholesalers and retailers, which continue to experience difficult trading conditions. However, the lowering of corporation tax during the next three years will be helpful. Market conditions are changing constantly and at a very fast rate. I would encourage retailers to remain alert and be willing to make changes to their business models to meet new challenges and opportunities. The EU

Secretariat continues to do sterling work in assisting and administering both the private sector and public sector with EU-funded projects. The current EU funding programming period will soon come to an end. These programmes have been highly beneficial for Gibraltar as can be seen by some of the results obtained. There has been a total of 169 EU co-funded projects under the various programmes Gibraltar participates in. There have been 118 projects under the Objective 2 (ERDF) Programme, 41 under the Objective 3 (ESF) Programme, 6 under the Gibraltar/Morocco Interreg IIIA Programme and 4 under the Interreg IIIB South West Europe (SUDOE) Programme. The majority of these projects have been to assist the small and medium-sized enterprise either to be created or expand their business. The private sector has so far invested £1,715,924 into the programmes. The EU has contributed £7,144,572. Government has match funded the programmes to the tune of £9,740,756. Some of the outputs of the programmes have included the creation of four new tourist amenities; the improvement to two tourist sites; four beautification projects; 134 full-time jobs created; 26 part-time jobs created; 64 jobs safeguarded; over 1000 beneficiaries have undergone training and have been assisted to find employment; 31 new start-ups assisted; 59 small and medium-sized businesses helped; eight female entrepreneurs assisted in starting up a new business; improvement to the public transport system; cultural exchanges; two research projects; two major IT projects; and two European environmental projects. These programmes have helped to further the EU's Lisbon and Gothenburg Agendas, which promote the creation of sustainable employment. This has also been a priority for the Government.

A significant proportion of EU funding is dedicated to public sector projects as well. There are currently three main beautification projects that are on-going. These are the two phases of the Orange Bastion scheme, which form part of the inner city regeneration programme and the final phase of the City Centre beautification scheme that incorporates Main Street south from the Supreme Court building to Referendum Arch. Under the Interreg Programme there have been four projects,

which have been undertaken in collaboration with other EU partners. They have included two ADMITRON projects, whose principal objective is to provide enhanced electronic services between Government departments and the general public. AQUACONTROL whose objective was to establish a transnational indicator system of the management and supply of potable water. ARQUITECTURA XX, which is a study of 20th century architecture in the participating EU countries. Final preparations are now being undertaken for the start of the new EU programming period of 2007 – 2013. The operational programme is being finalised and the link to the SFC2007, the EU Commission's computer system designed to implement the operational part of all the EU funding regulations for the new operational period, has been established. The allocation of EU funds for Gibraltar for this period are as follows. Under the ERDF - € 5,800,739 and under the ESF - € 3,361,599. These funds together with the Government's contribution and approximately €1,500,000, which is the envisaged private sector contribution, will bring the total value of the EU programmes to €21,856,052.

In my Budget speech last year, I mentioned a number of projects that were in hand that would be funded solely by the Government. Most of these projects are now under way. This year, however, I am delighted to have been leading on the renovation and refurbishment of the Retrenchment Block at Lathbury Barracks, which will provide facilities to house a number of clubs and associations. This has proved to be a very popular initiative judging by the number of entities that have made representations to the Government expressing their interest in being considered for premises, in due course. Home ownership continues to play a pivotal role in Government's housing strategy. I am pleased that the buildings at Waterport Terraces, Nelson's View, Cumberland Terrace and Bayview Terrace are now making good progress. Full details of the affordable housing project in the North Gorge will be announced in early autumn. I am glad to report that Gibraltarians continue to progress up the property ladder with the various private sector developments coming on stream.

Gibraltar continues to ride on a wave of investor confidence. Progress has been good in projects like Ocean Village, Euro Plaza, Little Genoa, Trade Winds, The Anchorage, King's Wharf and The Island at Queensway Quay, and in fact, some of them are complete or almost completed. Other projects, like the recently-launched Midtown Development, Buena Vista and the Eastside Project will commence in the next 12 months. In fact, the Eastside Project works are due to commence in early 2008 once it has completed the necessary planning process. Over and above these projects, there have been a number of ex-MOD properties that have come on stream, which the Government have put out to tender for sale in the open market. I wish to take this opportunity to comment on recent statements by the Opposition in which they claim that "Government was selling our heritage, doing so cheaply and in a manner in which our heritage is lost forever". Naturally, I totally reject this statement. What the Government is actually doing is putting ex-MOD properties to open tender, allocating them to the highest bidder, and therefore maximising the financial return on these properties in the open market. However, if these properties are in some cases impossible to restore, and after exhausting all possibility, the Development and Planning Commission will allow demolition and re-development on strict terms. There is nothing untoward about this procedure, even though it may not follow the practice by the GSLP, in some cases, when disposing of ex-MOD properties when they were in office from 1988 to 1996.

The Government attach great importance to the planning process. The DPC continues to meet very regularly due to the increased number of building applications. I am glad that the public continues to participate in the planning process by commenting on applications. The Government welcome and encourage this process of consultation. This leads me, Mr Speaker, to the new Development Plan, which has now been considered by the DPC and has gone through a long process of deliberations. The draft Plan is now ready and complete and will be launched in July. An exhibition of the draft Plan will be located at Casemates vaults in order to allow the public to examine it and participate in the public consultation process

which will be open for two months. Any representations received during this time will be considered by the Development and Planning Commission and then will be submitted to the Chief Minister for final approval as required by law. I would like to stress the fact that a new Development Plan has not been adopted does not mean that Gibraltar does not have a Development Plan in place. The last published Plan continues to be the Development Plan for Gibraltar, which has been used by the Development and Planning Commission when considering applications. All planning permits issued by the DPC throughout this time conform to the last Development Plan, introduced by the GSLP when they were in office.

Employment

I now turn to my responsibility for employment. The task of the Employment Service continues to be to provide opportunities and assistance to all registered persons to find secure, safe and suitable employment, and thereby serve the needs of services and industries that contribute to our economy. This is the reason for having brought the Employment Service and the Department of Trade and Industry under the same Ministry. Mr Speaker, allow me to focus on our employment situation. The number of jobs recorded in the Employment Survey in October 2006 stood at 18,485 representing an increase of 1,611 more jobs in the economy, equivalent to 9.5 per cent over the figure recorded in October 2005, which was 16,874. This represents another record figure. There was an increase in the private sector of 13.3 per cent, from 12,812 in October 2005 to 14,512 in October 2006. The Employment Survey also shows that the number of jobs in the gaming and betting activities sub-industry increased significantly over the year by 26.6 per cent. Even though the number of jobs available in the economy has increased by 1,611 from October 2005 to October 2006, the level of unemployed has fluctuated around the 325 to 330 level, signifying a level of approximately 1.8 per cent unemployment figure. This, in economic terms represents full employment. I was astonished to hear the Hon Mr Bossano's comment yesterday on the

employment situation. It is clear that the Hon Mr Bossano is unaware of the realities of the Gibraltarians that are unemployed. There may be some who seek to see him for help, but I can assure the House that I, as Minister for Employment, take an active interest and meet these people in order to help in securing work for them. The October 2006 Employment Survey showed that the number of Gibraltarians in employment stood at 10,346 against a figure of 9,390 in October 1996, representing 956 more jobs for Gibraltarians in the last ten years. These figures speak for themselves. The Employment Service manages programmes that are specifically aimed at preparing the short and long-term unemployed for a return to the working environment. The overall picture shows that Gibraltar continues to enjoy a very positive trend in employment opportunities and extraordinary economic growth. This is a cause of satisfaction to the Government as it is further proof that our economy continues to be healthy and prosperous.

Health and safety at work is one of the main responsibilities of the Employment Service. In this regard, the Employment Service organised a successful seminar last year, to coincide with European Health and Safety Week. The seminar, which included contributions from various experts in the field, helped to increase the awareness of the necessity of good working practices, in all places of work but particularly in the construction industry. Another similar seminar is planned for October this year. However, throughout the year the Employment Service continues to work towards improving awareness of the need to provide a safe working environment for all.

Communications

I will now turn to communications. With regard to communications, I have responsibility for certain aspects of the Gibraltar Regulatory Authority, for the Royal Gibraltar Post Office, and by extension, the Philatelic Bureau. I will start by addressing the matters that fall within the remit of the Gibraltar Regulatory Authority. As we are all aware, the GRA is an

independent authority, which regulates the following areas for which the Minister for Communications has responsibility: international co-ordination of satellite networks and licensing; and electronic communications, which includes radiocommunications and licensing of the radio spectrum.

The Communications Act 2006 was commenced on 6th June last year and introduced significant changes, the main one being that all electronic communications services and networks are provided under a regime of general authorisations. There are currently seven companies operating under this regime providing a variety of fixed and mobile networks and services. Last year I informed the House that the GRA was in discussion with two companies who expressed an interest in providing mobile services in and from Gibraltar. These discussions were delayed because of the lack of telephone numbers, but have been revived with a new impetus, and a second mobile operator for Gibraltar is expected to be licensed within the next few months. Other companies are in discussion with the GRA about providing alternative mobile and fixed services. The Communications Act requires the GRA to carry out a series of market analyses. The GRA engaged consultants to assist with these market analyses, which were completed in April and are now out for public consultation. The GRA continues to provide support to the satellite operator, SES Satellites (Gibraltar) Limited, in relation to the co-ordination of networks and the follow-up required with the International Telecommunications Union. The issuing of various classes of radio communications licences, like Ship's Station Licence, Dealer's Licence, Private Mobile Radio Licence and Teleport Facility Licence and collection of fees is delegated to the GRA by the Minister for Communications. In the last financial year, the GRA collected £715,000 in licence fees on behalf of the Government, compared with £403,000 in the previous year.

There have also been other developments in communications. As a result of the Cordoba Agreements, and Spain's recognition of our international dialling code "350", the Government will be introducing a new numbering plan for Gibraltar, which will end

the acute shortage of telephone numbers, that has affected Gibraltar for many years. The availability of numbers will allow for competition in several areas. The main change will be that all 5-digit telephone numbers will be extended to 8 digits long, the same length as mobile numbers. All current 5-digit numbers will be extended by adding the number "200" in front of the current number. The 200 prefix will be easy to remember. The whole change will be spread over a period of some 18 months. The Cordoba Agreements have also seen the introduction, for the first time of a roaming agreement between Gibtelecom and a Spanish mobile operator, Telefónica.

Mr Speaker, I will now turn to the conversion to digital television. The Government have agreed that Gibraltar will meet the cut-off date for all analogue television services in Europe. The analogue switch-off will be completed by 2012. Gibraltar participated in the ITU Regional Radiocommunications Conference 2006 and successfully co-ordinated with neighbouring countries the use of two channel blocks for digital radio, known as T-DAB, and two channels for digital television, known as DVB-T. Six new transmitter sites throughout Gibraltar were also co-ordinated. The agreement will increase to a maximum of eight, the number of programme channels available. Initial discussions are underway between the Government, the GRA and GBC to implement the necessary measures, and further public announcements will be made at a later date.

Post Office

The Royal Gibraltar Post Office continues to improve the level of efficiency that we have now become accustomed to. We still continue to enjoy the cheapest local postage rate in the western world, and the next day service model continues to deliver over 98 per cent of all "walks" by the next day. The sale of stamps exceeded the high estimate of £750,000, with a new five-year record sales of £800,000. This was due to new business initiatives including postage paid impression, new franking

machines and mail room management services. The greater trust placed in the Royal Gibraltar Post Office by the business community is clearly reflected in greater sales. The cooperation between the business community and the Royal Gibraltar Post Office continues to grow and custom-made services are always made available. The receipts from Royal Mail and some other small postal administrations on terminal mail fees are not included in the actual departmental revenue as these have still to be settled. The netting-off exercise is to be carried out in this new financial year 2007/2008 once Royal Mail agrees its applicable payment tariffs under the Universal Postal Union. This is not unique to Gibraltar. Once this is settled it will result in further departmental revenue for the Royal Gibraltar Post Office. The rental of PO Boxes continues to be on the increase and more PO Box banks are readily available. The increased income is being collected now. E-commerce sales will, despite the drop in sales for 2006/2007, grow beyond the previous actual 2005/2006 revenue figures. This will be as a result of new legislation, that will be put to Parliament shortly. New e-commerce pilot projects are proving to be successful and have resulted in new employment opportunities in this sector. The import and export logistic providers will also have much to gain from such activity, together with local service providers and postal stationery suppliers. Some local entrepreneurs are also clearly taking advantage of this new sales portal. Fulfilment services, including sorting, picking, packing and posting, are now available. We now have direct mail routes to 14 new destinations made possible by the newly projected e-commerce traffic. This will improve the quality of service for all mail, and reduce the Royal Gibraltar Post Office costs by cutting out the middle operator. Now turning to the Gibraltar Philatelic Bureau, of which I am the Chairman, I report that 2006 saw a decrease in the sale of Gibraltar postage stamps. This was due to the fact that the largest stamp company in the world, being the Gibraltar Philatelic Bureau's biggest customer, ceased trading. Consequently, the licence fee paid by the Bureau to the Government experienced a decrease. However, worldwide interest in Gibraltar stamps continues to grow as the Bureau continues to develop its reputation for producing quality stamps

and for innovation. The Bureau opened 1,065 new accounts last year.

Tourism

2006 was a good year for tourism. It was yet another year when Gibraltar's tourism industry continued to grow with the total number of visitors being almost 8.2 million and a total expenditure figure, according to the 2006 Tourist Survey Report, of £210.5 million. Figures for 2007 are already showing further growth. Last year saw 7.8 million visitors enter Gibraltar by the land frontier with Spain, representing a 5.13 per cent increase on 2005. This increase was in spite of a downturn in the traditional package tour market in Spain that is the source for the majority of the day trip visitors to Gibraltar. Tourism patterns continue to change and today a greater number of visitors to Southern Spain and Gibraltar make their own travel arrangements via the Internet. As a result of this, the Government continue to attach little importance to a decline in coach arrivals as the amount of private tourist vehicles has increased. In fact, visitor numbers to the Upper Rock have increased by 7 per cent to 723,429, up from the previous year of 676,123, and revenue by 9 per cent to just over £2.7 million, a rise from £2.5 million the previous year. Nevertheless the Gibraltar Tourist Board continues to market Gibraltar on the Costa del Sol and will shortly embark on joint marketing and advertising campaigns with large tour operators to Gibraltar from this source market. Gibraltar continues to be the number one selling day trip excursion from the Costa del Sol.

Cruising in 2006 was a great success. There were 202 cruise ship calls in 2006 representing a rise of 18 per cent on 2005 and 210,799 passengers, representing an increase in passenger numbers of 12.2 per cent. The number of cruise ships expected to call at Gibraltar this year is currently at 236 with a potential of approximately 301,000 passengers. This would represent an increase in the number of passengers of 43 per cent over last year. Bookings for 2008 are encouraging. To date 160 ships are

already booked to call at Gibraltar with a potential of 247,000 passengers, and this figure will continue to increase in the coming months. These figures clearly show that cruise ships continue to grow in size.

The Port of Gibraltar continues to be a leading and active member of Medcruise, the Association of Mediterranean Cruise Ports. Through this organisation, and also through the exhibitions and conventions organised by Seatrade, the Gibraltar Tourist Board ensures that Gibraltar maintains its position as one of the most important cruise destinations in the Mediterranean.

The number of arrivals by air last year was 143,914, a decrease of 4.25 per cent over the previous year. Whilst this is disappointing it can be attributed, in the main, to the decision by Monarch Airlines to discontinue flying to Gibraltar from Manchester in the UK. The service stopped in July of 2006 and statistics show that from July 2006 to November 2006 this had a negative effect on arrivals. However, with the commencement of flights to Madrid in December, arrivals have now risen. There are currently 23 flights to the UK per week, 16 to London Gatwick and seven to London Luton. There are 14 flights per week to Madrid. The commencement of flights to Madrid, as a result of the Cordoba Agreement, has been an important milestone for Gibraltar's tourism from Spain. Additionally, this development has had significant positive effects for business in Gibraltar. The Government are actively in discussion with airlines from destinations in Europe that would be beneficial to the economy, and have also had proposals made by airlines wishing to operate into Gibraltar. These discussions are currently continuing. Whilst the Government is keen to attract new operators, the development of new air routes must continue in parallel with the development of the new air terminal, road infrastructure, tunnel and multi-storey car park. The current levels of commercial air traffic are already having an effect on the free circulation of vehicular traffic and this is being taken into consideration when planning the immediate expansion of services to the airport. The announcement by the Chief Minister

during his address in respect of the recent agreement by the MoD for the airport's commercial operation is very positive news for future development. A more commercial approach is needed in the relationship with civilian users of the Airport. This agreement allows for this as it will enable the Government to establish the level of landing charges, amongst other charges payable by civilian aircraft, to make operations into Gibraltar commercially viable. A new business model is currently being worked on in the light of future expansion.

Yacht arrivals have continued to decline since the Sheppard's Marina berths for visiting yachts became unavailable as a result of the Ocean Village project. The Government look forward to the completion of these works, which will further raise the profile of yachting in Gibraltar.

Investment on tourism marketing and product development continues like never before. The marketing strategy continues to be targeted in the main at consumers but also at the major tour operators in Europe. Through regular meetings our partners in the industry advise the Gibraltar Tourist Board on customer trends and needs and the Gibraltar Tourist Board reacts to these. This year, the Gibraltar Tourist Board will continue its marketing efforts through a range of activities including, trade fairs, workshops, and advertising to sell Gibraltar as an ideal short break destination. I am pleased to report that the Gibraltar Tourist Board will be participating again at the World Travel Market to be held in London in November, after being absent from this event for the last three years. The Gibraltar Tourist Board will be encouraging companies in Gibraltar's tourism industry and some of its key partners from abroad to enter into joint marketing campaigns. The UK will continue to be Gibraltar's main source market but with the start of flights between Gibraltar and Spain this market is now the target of an enhanced marketing campaign by the Gibraltar Tourist Board. Already local hoteliers and tour operators have taken the initiative of sending marketing teams to Madrid and have worked in partnership with our office in Madrid to sell Gibraltar to the Spanish leisure market. These efforts are

already yielding results. One of Spain's major tour operators has recently included Gibraltar in its summer brochure and we hope that others will follow this initiative.

The Government's programme of investment in improvements to the visitor attractions on the Upper Rock is to see major progress this year, as significant work has been undertaken in preparatory infrastructure works in the last two years. The refurbishment of the Moorish Castle is complete and was opened to the public on 12th June. Additionally, toilet facilities will be built at the Castle and also in the area of Princess Caroline's Battery. These works have required the laying of new sewage outlets where they did not exist previously. New sewage outlets will also be installed from St Michael's Cave allowing the existing toilets to be refurbished. A new ticket office is to be built following the summer 2007 season, and a new system of emergency lighting has been installed in the Cave. New railings will be in place at key areas within the Upper Rock later this year along with new litterbins. A major upgrade of the Great Siege Tunnels is also planned for later this year with improvements to the static displays and lighting. It has been decided that the Apes' Den will continue to be the focal point for visitors wishing to see the macaques, and the Den will be refurbished later this year. In co-operation with the Bonita Trust, Mediterranean Steps have been refurbished and are now safe for use once again. In other areas, newly refurbished toilets have opened at the Gibraltar Coach Terminus and work will begin shortly on an improved tourist information counter within the terminal building. All signage within the Upper Rock has been updated and improved. The signs are particularly aimed at improving directions for those who wish to walk within the Upper Rock. Works to significantly improve Camp Bay are progressing. The first phase of works is complete and is proving to be a very popular amenity. Works on the second phase are due to commence after this year's bathing season. Once the refurbishment of Camp Bay has been completed, the Government will upgrade the facilities offered at Little Bay. The completed programme in one of our most popular and most used leisure areas will afford families a safe leisure environment

that can be used all year round. I am pleased to report that I will shortly be announcing plans for Europa Point. This project has suffered a delay as it was necessary to take account of the proposed Waste Water Treatment Plant in the nearby area before the project could be given the final go-ahead. Works will be due to start in the course of this year. The emphasis in this project is to develop leisure facilities for residents and tourists alike, and to maximise the use of the area as an open space for families to enjoy.

Hotel arrivals in 2006 totalled 59,194, representing a slight increase over 2005, which stood at 58,796. In most cases the hotels have reported that their yields continue to rise. The Government are aware that demand exists from the leisure market to fill more hotel rooms at certain times of the year but that some hotels prefer to have less occupancy and more profitability. I am pleased to say that all the hotels continue to invest in the upgrading and updating of their facilities, with two of the larger hotels carrying out further refurbishment during 2007. The Government welcome the plans to expand the Caleta Hotel and the Elliott Hotel and the development of new hotels which will include the Eastside project, the Rotunda and Buena Vista, which are already publicly known, and believe that competition in this sector and the supply of new hotels rooms would be welcome to ensure the long-term prosperity of the tourism industry. The Gibraltar Tourist Board continues its partnership with the AA of the UK for the official grading of these properties.

Transport

Mr Speaker, I will now turn to the Department of Transport. Obviously, the announcement by the Chief Minister on the abolishment of Road Tax on all vehicles is most welcome. This measure came into effect yesterday. The House will recall that last year I mentioned the fact that the department was striving to improve customer care and had developed a new computer programme that would improve service delivery to the public. I am pleased to report that this enhanced service for vehicle

registration, roadworthiness tests and licensing matters has drastically reduced waiting time at the department's "one-stop" service at Eastern Beach Road. In fact, in order to assist the public further, the majority of these forms can now be downloaded from the Government website. I am pleased that during the course of this year, the Government have introduced the Blue Badge Scheme for the disabled. This Scheme will enable eligible persons to use this badge both in Gibraltar and across Europe. The implementation of the new Scheme means that disability discs issued are in the format of the EU style "Blue Badge Scheme". These discs are issued either to an individual or to an institution that cares for the disabled. They have been produced to meet with EU specifications and are governed by the Disabled Persons (Badges for Motor Vehicles) Regulations. These are a new set of Regulations that have been specifically drafted by the Government to govern the issue and enforcement of the Scheme. A medical panel has been constituted to adjudicate on each individual application. This will provide for a more fair and impartial assessment of the application. This panel comprises a doctor, an occupational therapist and a Government official. This panel is meeting on a monthly basis to consider all new applications. Existing holders were automatically issued with the new badge under the new Scheme.

Last year I reported that the Government had been consulted on the setting up of an association of European Vehicle and Driver Registration Authorities. The Department of Transport is now a full member of this association. So far 17 countries, including Gibraltar, are members of this association. Most registration and licensing authorities across Europe are facing, in common, a number of challenges, problems and new demands that call for closer co-operation. Problems in combating crime and fraud are increasing. The removal of border controls across Europe has made it easier for stolen, unlicensed or uninsured vehicles to circulate easily in other EU countries. The exchange of information on vehicles and drivers is therefore a key element in tackling these problems. Therefore, the Government welcome its participation in this association, as close links need to be

forged between registration authorities for benefits to be fully realised.

Another issue that is of high importance is the removal of derelict or abandoned vehicles. Work continues very successfully and Government are committed to continue with this effort. I am pleased to report that between May 2006 and May 2007, over 900 vehicles were disposed of. This, together with the construction of new car parks in the Upper Town, New Harbours and Sandpits, will serve to improve the parking situation.

The Department of Transport also closely monitors European Legislation to ensure that Gibraltar complies with and meets its obligations. To this end, the Department is already working on the introduction of the Third European Directive on driving licences that will, amongst other things, replace our existing driving licence with a photo-card driving licence. The aim of this Directive is to combat driver licensing fraud and impersonation, improve driving examiner qualification and training, and combat driver licence tourism.

I will now turn to the Gibraltar Bus Company and I am pleased to report that 1,479,676 paying passengers travelled on these buses representing a 5.3 per cent increase over the previous year. The Government are satisfied with the service provided by the company but wish to encourage further use of public transport as part of their transport policy. The budget measure introduced last year allowing free travel to persons over the age of 70 wishing to use bus routes operated by the Gibraltar Bus Company on all routes except route 9, has had the desired effect with our senior citizens making more use of bus travel. The introduction of a range of different weekly passes and season tickets have also encouraged further bus usage. The refurbishment of all our current bus shelters will shortly commence, which I am sure will be welcomed by the public. The introduction of a seasonal beach service during the official bathing season has been well received by the public, who are now able to travel to all beaches by bus. This has alleviated

traffic flows to the beaches and the requirement for the parking of private vehicles at the beaches.

Port

I will now turn to the Port. The maritime sector in Gibraltar has enjoyed another outstanding year in 2006 and prospects for 2007 are for continued growth in all areas that make use of the Western Mediterranean's one-stop shop for shipping services. The number of vessels calling at Gibraltar in 2006 was 8,988, which is an all-time record, representing 223 million gross tonnes. Bunkering operations continue to perform well with almost 4 million tonnes of bunkers being delivered. Supply figures for the first quarter of 2007 are already showing a year-on-year increase of 4.6 per cent. Significant investment will be made in this financial year with a view to upgrading the facilities for cruise ships at the Western Arm in order to meet future demands. The works will include the extension of the Cruise Terminal, the continuation of the paving of the surface at the quayside, and dredging on the inside of the Western Arm which will enable larger ships that are being built to come alongside. Last month saw the retirement of Mr Jimmy Ferro as Captain of the Port after a lifetime's service in the Port of Gibraltar. I would like to take this opportunity to thank him for his dedication, commitment and loyal support during the last 11 years that I have had Ministerial responsibility for shipping and wish him a long and healthy retirement. I would also like to welcome Captain Cliff Brand as the new Chief Executive and Captain of the Port.

Ship Registry

The Ship Registry continues its year-on-year growth which last year amounted to 16 per cent. In 2006 there were 45 new registrations and 15 deletions, bringing the total number of vessels on the register to 217. This represents nearly 1.4 million gross tons with the average age of vessels being ten years. As I

speaking today, the number of vessels on the register is 243 representing nearly 1.5 million gross tons. This increase in volume has been achieved without loss of value or quantity within the fleet, and it is still the case that sub-standard ships and their operations are constantly monitored and, where necessary, encouraged to leave the register if they fail to meet the high expectations set by the Gibraltar Maritime Administration. This continued growth is in some part due to our good reputation, but marketing also plays a major role. Advertising, attending shipping conferences and exhibitions as well as visiting targeted shipping companies on promotional trips has seen the marketing budget well spent and value for money by the increase of quality ships. To achieve and maintain the level of service the Department and its manning and operating costs have also grown. Last year saw the recruitment of new maritime surveyors, and the refurbishment of the office to accommodate the expanding work force. Various accident investigations were conducted during the year, not just to Gibraltar registered ships, but also incidents that happen within our territorial waters. These have been carried out using our own experts and surveyors, therefore meeting our obligations to the shipping industry. Our obligations under the Paris Memorandum of Understanding on Port State Control, which requires Gibraltar to inspect a percentage of vessels calling at Gibraltar, has also been met successfully. The Gibraltar Ship Registry continues to remain on the Paris MOU "white list". In the near future, it is expected that the Administration will be audited by the International Maritime Organisation (IMO) inspectors under a voluntary auditing scheme, and this will provide another indicator that the quality and control over Gibraltar's fleet is being maintained.

Mr Speaker, the last 12 months have seen a considerable amount of activity within the various departments that fall under my Ministerial responsibility. The results are there for all to see. The Cordoba Agreement has had very positive impact on many areas for which I am responsible; that is the improved frontier flow, which is important to tourism; the enhanced use of Gibraltar Airport essential to the development of air

communication, and the telecommunications issues addressing the roaming of Gibraltar mobiles in Spain and the lack of telephone numbers. I will not be ending my address with a quotation but all I would like to say is that the Government will continue to deliver on sound policies for an even more prosperous Gibraltar. Thank you.

HON F R PICARDO:

Mr Speaker, It is important to note, and I think the Chief Minister did, that these are the first Estimates of Revenue and Expenditure to be considered under the new Constitution by this Parliament. As a result they are the first Estimates of Expenditure presented to this Parliament directly by an Elected Member, the Minister for Finance. It is important that we note that we no longer require a UK appointee to present this Bill to the House at first reading. In the same way that we are capable and have been capable of paying our own way for many years, we now formally leave behind the idea that we are technically incapable of presenting, debating and considering for ourselves the cost of running our country. So to the substance of the debate. As we are in the last Budget session of the life of this Parliament, the time has come to talk of many things and review the state of our nation.

We are now in a position to assess, not just how our economy has performed in the past year and how we expect it to perform in the next 12 months, but also what has been the effect of the stewardship of our affairs by Government Ministers. In that respect, what springs to mind immediately is the Shakespearean quote that "welcome and unwelcome things at once are hard to reconcile". Welcome because of course, where Government Ministers have seen the error of their ways and have adopted policies presented by us at the last election, we will not criticise them for doing things we believed to be advantageous for our people. Unwelcome because what a pity that we have had to see these advantages delivered to our people in the electoral cycle late when they could have been delivered and guaranteed

to have been delivered sooner if the Opposition had been sitting in Government. Let us quickly review some of the things that have been done by this administration in the past four years which were envisaged in our manifesto and not in theirs. Cutting the top rate of tax down to 40 per cent was in our manifesto but not in theirs. The abolition of the parental contribution for students was in our manifesto but not in theirs. The re-introduction of the principal of constructive dismissal was in our manifesto but not in theirs. A commitment to move the OESCO power station was in our manifesto but not in theirs. The purchase of air and noise pollution monitoring equipment, was a commitment contained in our manifesto but not in theirs. The two highlights of the speech yesterday, the abolition of Road Tax and the inclusion of divorced persons pension rights, were things in the manifesto of the party in Opposition not the Government. But in our manifesto those things were "bribes", yet it is the "conscientious spreading of wealth" in the hands of the Government. Anyone untrained in the art of spin might not hesitate to call such a *volte face* political "hypocrisy". Instead, in the land of the GSD myth and wonder, it is the delivery of the rewards of prudent financial management. Well, Government Ministers know that at this time in the afternoon, on a sunny June day like today, we are likely to be among the very few who are listening to this debate, so they can feel free to admit that they are embarrassed but are delivering on our manifesto, not necessarily on ours. I have no difficulty with that, I can see him blush but it is okay, it is fine, it is all good for the people of Gibraltar. Well, the analysis that we have to undertake in this Parliament is to the heads of the expenditure by department, and I will therefore now address each of the areas of responsibility I carry on these benches, beginning with my responsibility for the media.

We were reminded yesterday of the fact that the Government have announced, apparently even before they communicated the matter to the staff side, that they are to undertake a full review of GBC. Well, clearly it is the right time before the switch over to digital, to carry out a full review of the Corporation; but why not appoint a general manager whilst doing so? With the

date of the election as yet unknown and possibly as far in the future as another five or six months, if the Government are able to limp their way until December, it seems almost reckless to have no manager in place for that period; especially a period as fraught as a coming election campaign. For that reason, I would commend to the Government that they should revisit this position and appoint a general manager for the coming period. That manager should, in my view, make one of his or her priorities the televising of the debates of this Parliament. I have said that on every occasion that I have risen to speak on this debate since I was elected. Given my four years here already, calling for the cameras to be allowed in, I think I can now say with a greater degree of experience than ever before, that there can be no greater histrionics possible from the either side of the House, simply because cameras might be allowed in. I think we do enough of that already. But at least, with the cameras in here with us would be the electorate; seeing us as we really are; and also perhaps realising, ironically; that we do not spend all of our time in this place at each others throats. Possibly because we cannot reach each other but that is the case. We do not spend all the time in here fighting, whilst people outside seem to think that we do. We are clearly at odds, as Mr Bruzon said yesterday, to take positions, sometimes, which are contrary to those we each take in the discharge of our obligation to check the Government. We did that earlier this year on the issue of funding of newspapers by the use of Government advertising. That was during Question Time and that question reminded me of the fact that the Chief Minister is fond of reminding us the Opposition that the electorate are no fools. I agree, but that cuts both ways. No one believes that the VOX newspaper is not now anything other than the latest victim of the Chief Minister's policy of withdrawing funding from publications that take an editorial line against him. VOX is now the companion to the long-suffering New People; who I have previously represented in its claims against the Government and which my firm continues to represent, although I do not do so myself. Whilst the New People's claim is *sub-judice*, the actions taken against the VOX are not. They are not yet *sub judice*. Of course, Government can spend their advertising budget as they like. But when

Government change their advertising spending habits when the editorial line of a newspaper changes, well, people are too clever not to see the reality behind that. If at the same time a new "newspaper" emerges, printed in Spain and carrying a heftily pro-Government editorial line, and that newspaper becomes a massive beneficiary overnight of Government monies amounting clearly to a subvention; well, people are just too clever not to see the reality behind that too. The fact is that the people of Gibraltar are not just clever, they are also fair. They do not like to see unfairness or institutional bullying of this sort. That the new 7 Days should be receiving an average of approximately £60,000 a year (based on the £27,000 it had received from September to January this year) whilst the VOX has all advertising simply cut off is just simply not credible, whatever the view any individual may take of the content of each of those papers. Yet, the way that the Chief Minister has sought to explain his position in interviews and in this House would have us believe that this is simply a circulation issue. I am sure it affects the circulation of more than one editor, but it is only because the rules of debate do not allow me to say he is misleading the House that I shall refrain from doing so. I shall limit myself to saying that this is simply as duplicitous as his presentation of most facts.

HON CHIEF MINISTER:

On a point of order, I, despite the rules of the House will accuse the hon Member of misleading the House, because the explanation I have given this House is not about circulation. The explanation that I have given this House is related to the financial standing of the Vox newspaper with the Government, their failure to pay rent, their failure to pay rates, their failure to pay tax, despite repeated opportunities to do so. He may not think that those are good enough reasons but he cannot, without misleading this House, come to this House to misrepresent the explanations that I had given to it for the Government's action. He can cast whatever opinion he wants

as to the reasons but he may not misrepresent them without misleading the House, as he has just done.

MR SPEAKER:

I must say my recollection was there is nothing about circulation in the explanations. The responses were all aimed at non-payment of dues.

HON F R PICARDO:

I have given way to the Chief Minister so that he can speak on a point of order so he can make a point of order. I have not yet replied, I have to reply to the point of order, I am entitled to reply to the point of order. I understand that anybody who wants to accuse anybody else of misleading the House needs to bring a motion to that effect.

MR SPEAKER:

That is correct that was the ruling last year.

HON F R PICARDO:

So I would ask that the Chief Minister bring a motion in those terms, then we shall see whether his answer only refers to the matters that he has set out now, or whether in fact, it also refers to the issue of circulation. The Chief Minister should realise that what I have said is that he has told this House and he has said in interviews, so I am importing into what I am saying everything that he said in the interview to GBC. If then he can persuade Mr Speaker that I have misled the House then he will succeed in his motion, but until then, I would ask Mr Speaker to rule that his point of order is wrong because he cannot accuse me of misleading the House without bringing a motion.

HON CHIEF MINISTER:

I will bring a motion only in two circumstances. Firstly, if Mr Speaker directs it and if he does not direct it, only if he brings the motion because the statement, the only thing that prevents me from accusing him of misleading this House are the rules of this House is an accusation of misleading the House. The hon Member may think he is very clever with his words, but that is by any standards an accusation of misleading this House. So, either we should both be directed to bring the motion, which let me say instantly I would be delighted to bring, or neither of us should do it. In any case, I stand by Mr Speaker's ruling but what he has just said to the House in his reply is, within three minutes of having said it already wrong. He did not say to this House that the explanation I had given, either in the House or in the press, what he has said is that the explanation that I had given in this House relates to circulation and circulation only. I say to him that that is not the explanation that I have given in this House. It is not the explanation that I have given in this House, his problem is that because it does not suit him he chooses to ignore the explanation that I had given in this House. That is the reality of the matter and if he wants me to demonstrate it to him in a motion I will do so.

MR SPEAKER:

Well, I did rule some months ago that any accusation of misleading must be by way of a separate motion. I think that is clear as far as both sides are concerned. If the Chief Minister wishes to accuse the Hon Fabian Picardo of misleading the House he knows he has to bring in a motion. I must also say that the Hon Fabian Picardo did try to slip a very fast one past me. I am sure Opposition Members did notice me raise my eyebrows. The hon Member did slip a fast one by me by saying he would not accuse of misleading and so forth. May I suggest we abandon motions and get on with the Budget debate.

HON F R PICARDO:

I am happy to do so and I will see the Chief Minister on Westminster Bridge. Clearly, this issue is one that affects the circulation of the Chief Minister as much as it affects the editor of that particular newspaper. So be it. In fact, this is a good place to start the address of the aspects of my responsibility in respect of matters of justice. We have already said that we on the Opposition are not necessarily comfortable with a Ministry for Justice as presently so obviously relished by the Chief Minister. Of course, as an emancipated nation there will be a need for us to have designated individuals with responsibility for matters pertaining to the administration of justice, prosecutions and the infrastructure of all those matters. We do not need the Chief Minister to tell us that. Our concern is that, insofar as it is possible, those matters should be the responsibility of an individual or individuals without raw political exposure. In other words, not a Minister. Wherever possible, in our view, many of the powers being put in the hands of the Minister should be put into the hands of the Attorney General. That does not prevent there being a Minister answerable in this place as to the issues that might arise in respect of the infrastructure of justice; but, for example, whether or not to hold an inquest, which was the issue that we considered when we amended the Coroner's Act last week, should not be a matter for a politician. Where the line should lie between the political and the technical in matters of the infrastructure of justice, is a long debate that is not about nationalism. Having different views of that is not to be more or less nationalist or anti-colonial. In fact, although he used that example during the debate on the Judicial Service Bill, because it was useful at that particular moment for him to do so, fair enough. The Chief Minister knows full well that decolonisation is much more sophisticated an issue than that. As for the first piece of legislation that we have seen presented to this House by the Minister for Justice, well, that debate is still fresh in the minds of those of us who were here two weeks ago and we need not re-argue that Bill. But I will take this opportunity to say that I do not accept the statements made by the Chief Minister, that the majority of the lawyers agree with his remarks as to who

should be head of the judiciary. From my own conversations with colleagues at the Bar, a straw poll would produce the opposite result. But of course, we are in politics and polls mean nothing to us, except for one poll every four years. Let me tell him, as I was not able to reply to his reply on that Bill, that to ask him to stick to the rules of debate is not to want to reduce this debate to a sixth form debate, but to do the opposite. Today I saw him for the first time leap to his feet, nervously, to make a point of order. That does mean that he is trying to reduce the debate to a sixth form debate. A debate is unworthy of the Parliament if it does not stick to the rules of the Parliament of debate. I am the first to want to see life in this Parliament; I believe that when we heckle each other we are breathing life into this place. But that is not to say that we should not follow the rules of debate; even if Members straying from the rules have to have their attention drawn to the breaches by points of order, and I recognise that Mr Speaker has done that today with both of us.

I turn now from healthy debate to the matter of health. One area that consistently engages the senses of all of us when we need to consider the issue. Although Ms Montegriffo has been with us today, she is not as yet well enough to deal with this debate herself, and I will therefore try my best to put an abridged version of our arguments on the issue. The publication in November of the Gibraltar Health Authority accounts for the year ending March 2004 gives us our first chance to really analyse the cost of the new St Bernard's building. Those accounts provide some details of the transactions with the Royal Bank of Scotland for the Europort building and for its conversion to adapt it for use as a hospital. The accounts show that the Government sold Europort blocks 1 to 4 to the Royal Bank of Scotland on 14th February 2003 for £8.5 million. The bank then leased the building back to the Government for 30 years, who in turn sub-let it to the Gibraltar Health Authority. The bank then entered into a works agreement with the Gibraltar Health Authority to provide £30.5 million to convert the building and this was covered by the rent and buy back option. On 30th March 2004, an additional £15 million was

required and obtained from the Royal Bank of Scotland. This additional £15 million was also covered by an agreed rent and buy back option. As well as these sums of money provided by the Royal Bank of Scotland, the Government from its own resources paid £1.25 million towards the costs of the building works and was committed to meet any expense in the conversion costs which were in excess of the total £54 million that the bank put up. We can also see from those accounts that last year we will have spent a further £3 million and we are budgeting for a further almost £5 million for what is set out in the book to be a final contract payment. The annual rent in the accounts for 2003/2004 was just over £3 million. £3 million rent for a building sold for £8.5 million. In the current financial year, the rent budgeted for the Gibraltar Health Authority estimates is £ 4.35 million, that is half the value of the building when sold. It has been confirmed in answer to questions that this rent is scheduled to go up every year by 1 per cent of the level of rent in the preceding year. That is, currently an increase in the order of £43,000 every year, but that is an accumulating amount. That, in my view shows that the PFI sale and lease back option taken by the Government was a bad deal for Gibraltar. Building a purpose built hospital on a virgin site would have been much more economical and, in our view, would have produced a better result. But let us put aside that debate for now. Even in settling for the existing building, it is our view that it would have been possible to raise finance more economically without having to do a deal that will be an albatross around the neck of the GHA for the next 30 years. Sale and leasebacks are popular in commerce and are used by organisations and some Governments that need to work their property assets in an aggressive way to finance their existing businesses or expansion. But I thought we were being told that our Government was running record surplus after record surplus. So why should we need to work a property asset like Europort so hard that we need to sell it for £8.5 million and lease it back for an eye watering amount on a PFI initiative? Just at £4.35 million a year for 30 years, we are on the hook for £130 million when we already owned the building. That is without factoring in rent increases of 1 per cent a year that will push the rent for

the period to over £150 million. That rent now, of course, includes the servicing of all the loans taken as part of the PFI. What possible advantages can there have been for going down this PFI road? By all means, if the Government had made the decision to put the hospital in Europort, so be it. They won the election, they were entitled to do so but why finance it in this way? Imagine if we could instead have invested a further £150 million in real health care over the next 30 years alongside whatever amounts we would annually contribute to the GHA. I think that this PFI initiative will come back to haunt the Government and this community for many years to come. Having said that, there is no doubt that the new hospital is a more welcoming building than the old St Bernard's used to be; but there is no doubt that it has brought with it its own fair share of problems and I am sure the Chief Minister would not wish to paint such a rosy picture that he might pretend that there are no problems, and I do not think he does. Most of these problems, we believe, would not have arisen in a purpose built facility and should not be arising now, even in the Europort facility, given the amounts of money already spent. But, we have the building that we have and we now have to understand what the continuing problems of our health services are in that building.

Well apparently it cannot be the low morale of the staff. When a survey last year included comments from staff complaining of low morale, the Chief Minister furiously rejected all of those comments with a variety of attacks on the way the survey had been conducted and attributed – as usual – all sorts of political agenda to those who had undertaken it and had contributed to it. Well, it is just not credible to say, as the Chief Minister said in his reply last year, that all complaints of the service provided by the GHA are politically motivated. To a very great extent I heard the same thing from the Minister for Health a few moments ago. The fact is that staff continue to make complaints about the problems they are experiencing in access to equipment and supplies. That is not to say that there has not been investment into the GHA. We are not saying that, of course there has been investment in the GHA. It is also not to say that the Government are responsible for clinical errors made by

clinicians and which might result in complaints by patients as to the care they have received. I cannot impute that to the Minister for Health or to the Chief Minister. I am trying to impute as much as I can to them but I will not even try to impute that. What we are saying – and we are saying it because we get a steady stream of complaints from patients and staff members – is that some problems are just not being addressed despite the massive amounts already invested. That is not us saying things to denigrate the new hospital to denigrate the Government – it is our communicating the information which our community members provide us to this House. For example, we have had referred to us by a senior clinical officer in the GHA, a complaint that when he had finished carrying out an operation recently he found that he did not have available stitches in order to close the incision he had made. In fact, my information is that stitches had to be procured from the Royal Naval Hospital, with the patient kept sedated for longer than necessary as a result. I can tell the Government that I received this information myself, and I would not be relaying it to this Parliament if I did not believe that I was being told the truth about something as important as this. What about that? Whether that happened before 1940, before 1969, before 1988 or before 1996, which seems to be the point of reference and when records began, is irrelevant. What matters is that it happened on their watch. It happened this year after all the investment. I have also been told myself by senior members of staff at the GHA that there have been occasions when they have not had surgical gloves available. Again, of course it would have happened in 1940 – there were not surgical gloves, it might have happened before 1969, it might have happened before 1988, it might have happened more than once before 1996, but it happened on their watch. Every year we have a debate about bed numbers and bed shortages; we have a debate about staffing levels and the nursing reviews. Well, we do not need to have that debate again this year, although the Minister for Health has sought the solace of numbers for his presentation on the GHA. We have set our positions out previously on that. This year it will be for the electorate to see in the election campaign what our respective plans for the future of the health services are on these issues.

People are not interested in what was the case in 1996, or 1988 for that matter. People are rightly interested in what we plan to do for the future; to improve management further. But ensuring that there are stitches and surgical gloves available is too basic to ignore. So if they have tripled investment to £60 million a year, why are there such basic failings? A stitch in time costs less than nine, well it certainly costs less than £1. They could have had 60 million stitches at least. In any event, a proper measure like any analysis, cannot be made in the abstract. The Minister for Health said that they had tripled investment in the health services from 1988, from £20 million to £60 million. Well, I am not going to answer for the GSLP which was elected in 1988, I was a schoolboy then, but it is fair to look at the statistics in the round. If the GSLP inherited a spending of £8 million on health in 1988 and left after two terms with investment of £20 million, which is the figure the Minister has given, then they are just about catching up in percentage terms by having tripled it after three terms. Well, the availability of common tools like stitches and gloves are not issues that should be relevant in this day and age and we should not even have to debate them in Parliament. Especially when we are talking about a state of the art facility, which is what the Government tell us the new hospital is. It clearly is when it is functioning well in all the cases where people are happy with the care that they have received. But there are issues where patients are let down, even in that state of the art facility, and in my view those are issues for which management has responsibility and in which they, management, are clearly failing. It is no use for the Minister to come back and say; but many people are happier than they were before with the old hospital. We all agreed that a new hospital was necessary. A system is always tested by its hardest cases, and however well the treatment of some may go, it does not exonerate the GHA's systems, and management, if basic lack of supplies are causing problems for some patients. Let us face it, it has never been a defence when a death in custody occurs in any police force for the relevant Chief Constable of whatever constabulary he may be, to say; "oh well we hold about 3,000 people in custody each year, this is the first death in five years, that is one death out of 15,000, everything is fine". No, that is

not a defence to the problems that there are in the health service. Even if there are only 74 cases of complaints officially recorded out of 288,000 instances of treatment. Look, for example, at the continuing delay in the production of x-ray reports, in respect of which we made public patient concerns in February. In one particular instance, a patient who was in pain went to see his GP in the Primary Care Centre in September of last year, June 2006. The doctor asked for a series of tests to be carried out including an x-ray. The patient in question went to have an x-ray in November. In February 2007, the patient went to see his GP again in order to find out the result of the x-ray. He was shocked to learn that, despite the GHA being a state of the art centre of excellence, the doctor was not able to make a proper diagnosis because he had not received the report of the x-ray from St Bernard's Hospital. All that the doctor could do in that case was prescribe painkillers. It is totally unacceptable that the production of x-ray reports should take such a long time. The Opposition understand that there is a backlog not in the actual taking of the x-ray, but in the production of the reports afterwards which meant that the more urgent cases were being dealt with first and the less urgent ones are put on the shelf. That means that the backlog continues to develop with the demand for x-rays as less urgent cases have to wait. This obviously poses a threat to patient care that people should have to wait for so long. In this particular case the patient did not know what was wrong with him three months after having gone to the doctor in September. In fact, in February he still did not know what had happened which was more than five and a half or six months. Members of the public continue to bring to the attention of the Opposition this type of deficiency in patient care. The Government have argued in the past that the Opposition is inventing these complaints, but more and more members of the public who have gone through the system themselves, have seen for themselves that our comments are true. In fact, it speaks volumes that we were told yesterday and today that a further radiologist is to be appointed which may help deal with the issue, that gives credence to the problem that have highlighted. I hope that the appointment of a third radiologist will mean that these reports are able to be dealt with much more

quickly. At the end of the day, what good is a new state of the art revolving door or a state visit by the Chief Minister every six months, to patients who do not receive their x-ray reports on time? Well, let us move on to something else.

We have seen in the past weeks that the ambulance service is now to come under the purview of the GHA also. We are already receiving complaints from those involved in the provision of that essential service and from individuals within the GHA that no provision has been made to accommodate our ambulance men and woman in a proper manner. Perhaps this will come and we will be told that we are just experiencing teething problems. I hope so. As Members will be aware, there were complaints about the premises St John's Ambulance staff used to have to endure at their headquarters at Coaling Island. Their move to the GHA should be an opportunity to improve their facilities, especially their overnight facilities, and not for them to find themselves in a worse position than they were in before. But, in the GSD world of big developments by big developers for big bucks, what chance did our ambulance men and woman have when they might have been standing in the way of another high rise, luxury property project of the sort which the Chief Minister tells us our development and prosperity as a people relies on. So, as soon as the deal between GHA and St John's has been done, the ambulance staff is hurriedly moved on, even if no proper provision has been made for them beyond a few beach chairs to sit on. Well it is simply not good enough. This is not what the GHA needs to provide our ambulance personnel. All of these issues are management issues. In fact they are a failure of management and it is that management failure that we consider to be unacceptable. So it is that whilst surgeons ran out of stitches and gloves and ambulance men and women are left to spend a whole shift on a beach chair, that the Minister and his imported and expensive management team, survey their state of the art facility from a management suite that is reportedly jaw-droppingly opulent. Well, they should have spent less in refurbishing the Minister's office and more on essential stitches and gloves.

Last year, the Chief Minister said that we had copied their manifesto commitment in 2006 to build a new hospital, because our manifesto was published after theirs and his copy showed our vision of a new purpose built hospital in the year 2000 in a different colour ink. Well, let us apply that standard to the issue of our other hospital facility, KGV, where the provision of mental health care is concentrated. Our manifesto of 2003 said on page 11 that: "The facilities at KGV are seriously lacking. We will therefore commit ourselves to re-housing the KGV at a purpose built facility which will also include extra buildings; a day centre and a respite home." Their manifesto said on page 17: "We will review and modernise mental health legislation and facilities." Review and modernise. Well, mental health only merited that one, short sentence in their current manifesto – so now, by the Chief Minister's own standards are they not "copying" ours? So be it, we are happy to see the other side implement our politics for the benefit of the community. But they have gone further, in the statements of the Hon Minister for Health and said that they will build the new facility from scratch because that will produce a better facility. Of course it will, that is why it was our policy for the mental health hospital and for St Bernard's, because hospitals, as the Hon Minister for Health now seems to be beginning to recognise, are all best built from scratch. It would be unfair not to say, and I do not want to say much about this, that KGV has been visited by tragedy on the issue of the recent fire death, which we have not previously commented on, as a result of the then pending inquest. Given the verdicts in that case, I think it remains inappropriate to comment in detail on that issue, save to say that I am sure we all agree on all sides of the House that if the tragic death of Mr Celecia is to mean anything, it must never happen again and the hon Gentleman has made statements about aspects of fire care at KGV.

That is not to say that we do not recognise that as our community progresses, naturally in every field as we have always done, there is not also some progress in this area generally. Of course there has been and of course there is being progress. We welcome the provision of, for example, a

regular mammography screening programme for women over 40 and other initiatives that have been announced today and previously. But we are not paid by the public to be cheerleaders for the actions of this Government or for any Government. We are paid to analyse their actions and to identify the failings. They do an excellent job of trumpeting their successes, such as they may be, for themselves. Therefore, there seems little point for the Chief Minister in his reply to get up and say that we have only pointed out things that the people have told us are going wrong and why we have not said that – and then he will give us the whole list that we have heard from the Minister and that is usefully set out in Hansard of last year of the progress of the health services. Well, we have not said that and we will not say that because he says that. We are paid to say not the opposite, to say the things that concern the community about the health care problems that there still are today. May I say, and I want to come back to this point because I think it is an important one, that there are many critics in Gibraltar of our adversarial model of politics, but I think, for example, even in the area of health that it has served us well, it keeps all Governments, of every political colour, on their toes and that it has helped produce the community that we have today, which on whatever side of the House may be, I am sure we are all justly proud with services that would obviously only improve if after the next election we have changed the orientation of our seats.

As for matters of employment, it is clear to all of us sitting on this side of the House that there remain many Gibraltarians unemployed whether it is 330 or more. The Ministers, both the Chief Minister and the Minister for Employment, refer us to there being full employment in Gibraltar. Well, that does nothing to deal with the problems of those who cannot find a job, they should not all be disregarded as unemployable. Too many of the jobs that would be accessible to people who do not have qualifications to access the job market at a particular level, are the ones that are being taken by cross-frontier workers from the hinterland. Nothing is being done for those people.

On the issues that affect the environment, I have detected that as the importance of this issue has risen in public profile, so has the amount of air time the Government have allowed the relevant Minister. As usual, we hear a lot about the commitment of the governing party to environmental issues, but we see so little action that, again, one fears total political hypocrisy at play. See, for example, the fairly – dare I say it - basic issue of recycling. We have spent the last four years with recycling contracts being about to be completed, granted, withdrawn, out to tender again, et cetera yet they never materialise. Perhaps the best evidence that the GSD is actually committed to recycling as it states it is, would have been if they had made Government a net recycler. Yet, they have not done that; and they could have done it very simply. Even on something like noise pollution we have seen twisting and turning. First we were told that there was to be a report on noise insulation of OESCO. Next, there was no need for that because the developer of the Eastside was to provide a further power station for added wattage. Next there was a recommendation, which might or might not be accepted, to insulate OESCO. Then there was a commitment to follow that recommendation, but not to do so until the MOD station had been moved. In January we were told by the Chief Minister in his New Year message that one of the many and important projects of 2007, he had a list, most of them have not started, was to be the sound insulation of the OESCO power station. After all that it now transpires that all of the power stations that we have in Gibraltar were going to come down to only one – a new one which is going to be built by this administration, apparently, work starts next year and ends in two years for a new power station. Yeah right. Well, we shall see. It turns out that the insulation of the OESCO building will go ahead anyway for potential future uses of the building. I wonder whether it might be because the new power station might not take two years. It may well be that moving all power generation to one location is better, but what effect will this have on the OESCO agreement which we were told was recently concluded? Will the Government now be in breach of the terms of that agreement? If we are going to take this line, why renew the OESCO contract six or seven months ago at all? What is it

now going to cost us to get out of it? Well, I do hope that the Minister for the Environment will join me in ensuring that the new power station, if it ever materialises, will be populated with generators that comply with the rules on best available technology, those are the expensive ones; as a new generating facility should not be able to grandfather its way around using old technology when new is available. I do hope that we will be serious about the issue of the use of renewable sources of energy in electricity generation and of the tests which the Minister told us are being undertaken, will materialise to something much more productive in the long term, if the technology is there. Perhaps as the issue of the environment is pushed further and further up the political agenda by the excellent work done by groups like GONHS and the ESG, and by the indomitable reality of climate change, the Government will appreciate the issue comes within the vote catching arena that is the only one of real concern to them. Perhaps then recycling and a real commitment to the use of renewable energy and carbon neutrality will be a more seductive concept for them than it appears to be now. Well, I commend to them again the commitment that we gave the groups before the last election. They have taken parts of it already, like the commitment to an epidemiological study, which they have resisted for so long but with which they have now decided to agree with. They should keep implementing our agenda in this area in the next few months that they have left in office before we take over and start implementing it in earnest after the next election. Unfortunately, there seems to me to be an electoral gimmick somewhere in the statements that we have heard on the environment from the Government and I fear we will not be seeing a new power station in the next three years as suggested yesterday; but we shall see. As there undoubtedly is in the pretence that the Government are finally embarked on an upper town regeneration scheme because they have started to refurbish a couple of houses. That, apparently, is the much vaunted ten years late upper town regeneration. Anybody who lives in the upper town knows how neglected the area really is; and it has been for generations, not just for the past ten years. The regeneration of that area will require a lot more than the minor

refurbishments already indicated and a new school, and words, also, will not help improve the area of the Eastside. Sovereign Bay, is more like an environmental catastrophe every day. It is an eyesore of the worst sort. In fact, now it is like a Himalayan mountain range of rubble that stands testament to the fact that the Government pay lip service to their environmental commitments but do not really care to follow through.

Moving then on to financial services, one can also identify there the same approach. The announcement by the Minister for Finance yesterday at last of a very slow phased in law tax model is a complete *volte face* by this Government; and it is the wrong way to implement the low tax policy. Having controversially and unsuccessfully stuck their colours to the 0 per cent tax mark, we must now find ourselves in 2007 without the exempt company product or a low tax product. In fact, until the European Court of Justice rules on the case brought by the Government against the Commission, we can have no real certainty on this issue. That ruling is expected, I understand, later in this calendar year. For the Government now to say that they will phase in low tax between now and 2010 is the wrong policy. Now we have to hear the Minister for Finance tell us that he will start an intensive, detailed and lengthy process of consultation with the different economic sectors. That is absolutely ludicrous. Not because he should not do it, not because he should not go for low tax but because he should have at least had the consultation already. He has had since 2003, at least, to understand the desirability and implications of moving to these models. It is not serious, therefore, to talk of commencing consultation now. We should have been ready to implement the low tax model, with an immediate move to the final low tax rate immediately, upon, hopefully, winning the case against the Commission. Instead, the announcement made yesterday has fallen like the proverbial damp squid on the Finance Centre. The professionals in that sector have been let down by the Chief Minister twice now; let down by the choice made five years ago to insist on zero tax and let down by this pretence of convergence, as if we were going to join the Euro, of a three year model that is too slow and that as yet has no

fixed destination. Not even now can this Parliament and the Finance Centre be told whether we will end up with a final rate 10 per cent, 11 per cent or 12 per cent. Well, thank goodness that the professionals in this sector can continue to deliver growth despite the challenges put in their way. What a pity that so many of the challenges should be home grown, rooted as they are in the arrogance and intransigence of a man who thinks he always knows better than anyone else. Well the fact is that the announcement yesterday fails to deliver the certainty the Finance Centre was hoping for. He has failed this sector completely in this regard. Let us be clear about this Mr Speaker. The three year plan is not what we would have done, and with an election between now and 2010, we will outline our alternative plan at the election.

To add to the concerns already felt in the sector, came the surprise that our Finance Centre is now a matter for discussion or is it negotiation with Spain at the Tripartite Forum of dialogue. Further surprise arose when the Chief Minister made a statement to the effect that he himself had put the issue on the agenda for discussion or negotiation. Well we will see where that leads us. Certainly, what we should be doing already is making our principal financial services legislation as agile as possible. To an extent I recognise that that is already being done in banking and other financial services matters. But the Act that needs more work is the Companies Act. I have been pressing for that for some time. Only now, I understand, have Government finally constituted a committee for this purpose. Let us see how long that takes. It is necessary to recognise the changes in the Financial Services Commission and the ability of those within it to deliver positive and industry friendly but quite robust regulations. We will see how the new structures there bed down over the coming year.

Finally, I think it would be unfair at the end of this final Budget session of this Parliament, not to say that from the Opposition benches we also extend a thank you to those members of the public services who make Gibraltar Plc function day in, day out. Our role here is to criticise the political administration of our

affairs by the Government. We, as all Gibraltarians, need to understand the value of our public services and we, on the Opposition, look forward to the opportunity to working more closely with all members of the public services after the next election. It has been a privilege to be a member with all of you – on both sides of this Parliament - of the last House of Assembly and of the first Parliament of Gibraltar. We may not share an identical political philosophy; but we all have the interests of our people and our country at heart when we have brought issues to this House and now bring issues to this Parliament. Too often the media highlight the moments of dispute between us and fail to highlight the many instances of cooperation we have enjoyed on the detail of legislation and in other aspects of the running of the affairs of the Parliament. However the electorate may decide to distribute the greater number of seats available in this Parliament after the coming election, it has been a privilege to have had the opportunity to make the contribution I have been so far allowed by our people to make. I do not pretend to have always got it right in this place or anywhere. I do not pretend that I will always get it right in the future, here or anywhere else. Only a fool would do that. But I think that I can speak for all of us when I say that we have always given of our best in the attempt. Although, it would appear that today is a propitious day for top Ministers who have been in power for over ten years to call it a day. Perhaps the hon Gentleman could take the hint? I want to end, with a piece of advice to the mover. He may be tempted, in his reply, to again go down the one way road to extended vitriol that he went down last year. I entreat him not to do so. He got so intemperate last year that I felt duty bound to make appropriate points of order to give him a chance to calm down. He should recall the advice that McDuff gave Malcolm just before they faced MacBeth one last time, that “boundless intemperance is by nature a tyranny, it has been the untimely emptying of the happy throne, and the fall of many kings.” We would not want that now would we? But despite all those concerns that I have indicated about the substance of these issues, Gibraltar cannot be without an appropriation and we will therefore support the Bill.

HON DR J J GARCIA:

Mr Speaker, this is my ninth Budget debate as a member of this Parliament. Having listened to the hon Members opposite this year, and having sat through the previous eight Budget debates in this House, I can only conclude that the Government have run out of ideas. The Government, have become masters in the art of the announcement and the re-announcement. Over the years, projects have been announced, re-announced and then re-announced both inside this House and outside it. Some have not materialised at all, while others have been carried forward no doubt for re-announcement again in the near future. I remember as a 16 year old history student being taught the Disraeli versus Gladstone era of 19th century British history. One of Disraeli's famous remarks, and there are many, when referring to the policies of Gladstone in Government was that the then Government front bench reminded him of a range of exhausted volcanoes. Far be it for me, to compare the policies of the Government to exhausted volcanoes. That is up to our listeners, with more vivid imaginations than I, to conclude whatever they wish. I propose to start my Budget address this year with an examination of issues relating to development and planning.

We have been debating the lack of an updated Gibraltar Development Plan in this House for many years. As the House knows, normally a development plan is produced every ten years or so. This means that the plan which is currently in its final stages of production, we have been told that the draft is actually ready today, should have actually been produced in 2001, not in 2007 which is already six years too late. The Government have tried to defend their position by stating that developments are not out of control, and that the 1991 development plan is still in force. We have often said, that the 1991 plan was suited to the conditions of 1991. It is not suited to the conditions of 2007 where there are developments going up all over Gibraltar at the same time. It is worth recalling, that in the Budget debates of 2005 the Minister told the House, and I quote: “I will shortly be announcing that the plan is ready for

consideration by the Development and Planning Commission.” The year was 2005 and the word then used was “shortly”. About nine months later, in March 2006, the Minister told me in this House that he hoped that the draft development plan would be presented to the Development and Planning Commission in the very near future. He said he hoped this would happen within the next month. The next month, at that time, was April 2006. This time the words used “in the very near future”. About four months after that, at the time of last year’s Budget in June, the Minister told the House that he would shortly be announcing that the plan was ready for consideration by the DPC. Yet in October last year, another four months later, the Minister told me that the plan had not yet even been presented to the DPC. This time, in all fairness to him, he did say that he did not dare to give me a date any more but he added, optimistically “we are almost there”. Finally, in February 2007, the Minister told this House that “in the next few days” the draft development plan would be circulated to all members of the DPC. Today we have been told that the draft is actually ready. So, this is an issue on which the Opposition have been pressing the Government for many years. The completion of consideration of the plan by the DPC is only the continuation of a process. The Minister, I think, went through some of the stages in his address. Once the DPC has considered the draft working plan it goes off to environmental reporting again. Then there is a two month public consultation, which he said would be in July or start in July, then it may need to be reconsidered by the DPC again, depending on the views of the public and then re-exhibited for three more weeks. Then, finally, the plan is submitted to the Chief Minister for final publication. Indeed, of the £20,000 estimated expenditure approved by the House last year in respect of the development plan, it is relevant to note that none of it has been spent and that this year we are being asked to vote another £26,000. The whole process to prepare and produce a new development plan has taken too long. At least we should be able to agree on that. In the meantime Gibraltar continues to be regulated by an out of date plan which saw the light of day way back in 1991. By the time the new plan is in place, it will already be closer to 2011 when the next one would have been due, than to 2001 when this

one should have been published. The Government have defended the accusations that we make against their planning policy, but the fact of the matter is that their position is indefensible. Some decisions seem to be taken on a haphazard basis almost on the personal whim of a Minister, and the evidence suggests that the consequences of those decisions are not properly assessed before implementation. Last year the Minister, who is also the Chairman of the Development and Planning Commission, said that the Government attach great importance to the planning process and suggested that the Opposition made every effort to discredit it. The planning process does not need the Opposition to discredit it. The Government are doing a pretty good job of it by themselves. The Chief Minister suggested in his intervention that in the next few months they will show that no Government ever before has taken the care that they have taken in their approach to development. I take this to mean that we will have the best plan in the world only after, and not before, all the current developments are under way.

Let me give some examples of the good job that we consider the Government have done in discrediting the planning process for themselves. A site which was going to be a worker’s hostel in Cumberland Road becomes what they termed affordable housing at the stroke of a pen. This happens because, with another stroke, probably of the same pen, the height of the Nelson’s View development was reduced. With a simple announcement, a site in Devil’s Tower Road which had been earmarked for affordable housing is now going to be a multi-storey car park. They say that the road itself will be transformed from an avenue leading to the east side project to a dual carriageway leading to the airport and to Spain. Let us not forget the famous concrete plant which caused so much grief to environmentalists and others with its original location at the base of the talus slope near Catalan Bay, and which suddenly found itself transported to the aerial farm near Eastern Beach instead. They decided to move the hospital into an office block and created a shortage of office space in the process, all this without taking into account that the building was designed for and to be

used as an office and not a hospital. There are still outstanding issues waiting to be resolved as a consequence of that planning decision. All this reflects a policy of taking planning decisions at a political level by reacting to events without regard for a proper planning process as reflected in a new development plan. Little thought seems to be given for the consequences of those decisions. But there is more. For example, the decision to construct the Nelson's View development on top of the Rosia Tanks is a case in point. The heritage implications of this is something that I went into in my address of last year, so I do not propose to repeat them again now. The House knows well that there were other implications, namely the settlement that the Government arrived at with the owners of the Rosia Cottages. Let me say that the Opposition do not blame the owners of the cottages for securing the best possible deal. We blame the Government for having created the situation in the first place by insisting that the Nelson's View development could only be built on the Rosia Tanks site. Let me add by way of an aside that I do not know what all the rush was for. If anyone goes to the site and looks at the project they will see that it is far behind the one at Cumberland Road, for example. This suggests that there would have been time for a full heritage assessment to be carried out. But coming back to the Rosia Cottages, the Government told the House in October that they had exchanged Surrey House, Suffolk House, Lancashire House and St Bernard's House (four ex-MOD houses) for the four Rosia Cottages. One of these properties was valued at £625,000 and two at £675,000. This is nearly £2 million for three of the four cottages. The fourth one, St Bernard's House, had been valued at £510,000 in 2004, more than the other three at that time. It is therefore safe to assume that it would have been valued at more than the other three in 2006 as well. The sum involved would therefore have been nearly £3 million. In addition to this, the Government also paid £50,000 each in relocation costs to three of the four cottage owners and the conveyancing fees, Stamp Duty and registration charges. The Government and the DPC had separate legal representation in this case. We know that the costs of the DPC were over £14,000. We do not know the cost of the Government's lawyers as this information was not

available the last time that the question was asked. The fees of the lawyers who acted for the cottage owners, which the Government also has to pay, were not known at that time either. The point is that the decision to site the Nelson's View development on the Rosia Tanks site has been an expensive exercise. What we do know is that the Government have had to pay out £150,000 to the cottage owners and over £14,000 for the DPC's lawyers. We also know that about £3 million in income from the sale of the MOD properties has been blown away, not to mention the charges in duties and fees which would have been paid had they been sold instead of exchanged. In all probability the money that the Government will obtain from the sale of the cottages will be nowhere near to what the Government have spent when this is added to the revenue that has been lost. The House knows, as a point of fact, that there is another case pending taken by a number of owners in Rosia Dale. All these consequences stem from the original planning decision taken by the Government to site the Nelson's View development on the Rosia Tanks site and nowhere else.

It was the Minister for Trade who told the House in 2005 and I quote, "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." Suffolk House, Surrey House, Lancashire House and St Bernard's House are four examples of MOD properties where the Government have failed to obtain the maximum benefit for Gibraltar. Indeed, it is questionable whether any benefit has been obtained at all. As the House knows, the research conducted by the Opposition has revealed that there are other cases. Lind House is a further example. The announcement that this property was sold by tender for just over £1 million was made in December 2004. A few weeks ago it was being offered for sale on-line by a real estate company in the United Kingdom for over £4 million and given an estimated development value of £15 million. The House may be interested to know that the property has since been removed from the website, which is perhaps an indication that it may have already been re-sold. The Government have said that they cannot be responsible for the

contents of the website. However, they can be held responsible for not having secured the maximum benefit for Gibraltar from this particular former MOD property. The case of Lind House will have shown that the Government have some thinking to do regarding the way in which they place these properties on the market. It is clear to us that in the five cases of MOD properties that we have highlighted the benefit for Gibraltar has not been maximised. But there are other issues raised by the sale of these properties as well. One of these issues is what the owner does with them afterwards. We need to take care of these old colonial buildings, in so far as we can, because some of these colonial type houses are part of the heritage and the history of Gibraltar. In this context, it is regrettable that the New Aloes has been completely destroyed to make way for a four-storey mini-block. The irony is that the tender in this case was awarded to a company called Historic Buildings Conservation (Gibraltar) Ltd and that, in this instance, no conservation of a historic building has taken place. Instead the building, which some people considered part of our heritage, like others considered Rosia Tanks part of that same heritage, has disappeared off the face of Gibraltar. Given that so much of Gibraltar's land is already in the hands of the same commercial interests, we have to question the wisdom of the policy of the Government to award tenders for former MOD properties to the same people as well. The Government cannot carve up Gibraltar for the benefit of the same few developers, who then construct houses that most of our people cannot afford to buy, and who, to top it all off, receive generous discounts to their final taxation bill through development aid. There are many Gibraltarians I have spoken to who submitted tenders for the purchase of an MOD property, and all of the people I have spoken to agree that it is unfair that they should be competing against property developers for the same house. This is also something for the Government to think about with regard to future tenders.

In respect of another former MOD area, the House will recall that the Opposition have questioned the manner in which the Government allocated the land in the centre of town which is now known as the Mid-Town project. The initial arrangements

were that the developer would pay no premium, but would instead construct £10 million worth of works for the Government. The Opposition at the time estimated that the development value of this land was more than double this amount at the very least. The Government may well have claimed at one time that they were getting a school, a park, a car park and a leisure centre for nothing, in the sense that nothing was supposed to be paid out. However, this is no longer the case as it has already been established that the leisure centre alone is costing double the original estimate at over £11 million, and that the Government will have to pay the bulk of the balance. In our view the policy of the Government in relation to the Mid-Town project has been a mistaken policy. Obviously, they are in a position to proceed in this way because they are the Government, but we are equally free to disagree with the way in which they have handled the issue. The Government should have established from the very outset whether there was a better deal on the table from any other developer. They failed to do this. Therefore we are convinced that in relation to this project, part of which will be on former MOD land, the Government have also failed to maximise the benefit to Gibraltar that could have been obtained. Last year we heard the Government say that the number of development projects which are going up all over Gibraltar, and they have repeated this in this Budget session, reflects and projects the huge international investor confidence that now exists. This is complete nonsense. What it reflects is the fact that Gibraltar has become a paradise for developers because they can make a fast buck on the sale of residential property. This is only so because the policy of the Government has pushed house prices higher and higher beyond the reach of many ordinary Gibraltarians. The Opposition are not saying that we are against luxury developments. What we are saying is that there has to be a balance over the years between low cost housing on the one hand, and more expensive residential developments, on the other. It is a fact that over the 11 years in which the hon Members opposite have been in office, that balance between the two has been sadly lacking. In a wider sense, this debate is about the kind of Gibraltar that we want to see in the future. Do we want a Gibraltar that becomes a

concrete jungle, or do we want a Gibraltar where there is a balance between progress and conservation? At present there is no balance at all. It is worth pointing out that for many citizens, including those who have approached the Opposition with their concerns, this is more a civic issue than a political issue. It is a matter of civic pride in our Gibraltar. Therefore, if there is an encroachment, for example, into King's Street by an office development adjacent to it, concerned citizens have a right to bring the matter to the notice of the Opposition. They do so because it is a matter of civic pride.

Mr Speaker, I move on now to tourism matters. The first point I have to make is to say that it is totally unacceptable that the Tourism Survey, the Hotel Occupancy Survey and the Air Traffic Survey for 2006 have not been made available to the Opposition until Budget day. It is true that some of this information is made available to me on a monthly basis by the Minister. However, what the Opposition receive every month does not cover everything in the surveys. We have nothing at all on hotels, for example. Without the surveys, and without enough time to analyse them, we on this side of the House, are not presented with a full picture of what is going on. After all, it is the surveys and not the monthly statistics that are the official figures for Gibraltar.

I had wondered, why no information had been received on the performance of our hotels as reflected in the Hotel Occupancy Survey. I also thought it odd that the Chief Minister in his address made no mention of hotels in this context. Having had the opportunity yesterday to look at the latest statistics, I now know why. 2006 was one of the worst years for Gibraltar hotels in recent times. Room occupancy is down by 10 per cent from what it was in 2005. The average length of stay is down, guest nights sold are down, room nights sold are down and sleeper occupancy is the lowest since 2000. These refer to all arrivals. When looking at tourist arrivals the picture is just as bleak. The number of tourists arriving at our hotels is the lowest since 2002. The room nights sold to tourists is down, the room occupancy in relation to tourists is down, the sleeper occupancy

of tourists is down and the guest nights sold to tourists is down. The average length of stay of tourists is also down. I remember, how for many years the policy of the Government was to encourage more air arrivals from the UK to stay in our hotels. At the moment we have less air arrivals from the UK, less air routes to the UK and less tourists staying in our hotels. It was curious to hear the Minister say that future plans in relation to the air terminal, roads et cetera will be taken into consideration when planning the use of the airport. Given that we do not have Manchester and Heathrow and that Fly Gibraltar will now not materialise, the obvious question is what happened to the slots that these would have taken up would they have happened in April, as had originally been planned, and had Manchester and Heathrow not been terminated at that time?

In relation to marketing, the estimates show that the marketing budget for tourism has grown from £850,000 last year to £900,000 in this financial year. The Opposition will continue to use value for money criteria as the benchmark against which the marketing budget should be tested. We know, for example, that the cost of attending Fitur in 2006 was £20,640.19. This year, that cost went up to £23,916.27. Mr Speaker, a reception was organised on the eve of Fitur which 32 Spanish journalists attended. The Government gave the cost of the reception as £3,495.14 in respect of catering alone. Presumably this figure does not include a charge for the venue. The cost of this reception only works out at £109 per guest. This is not value for money in our books.

Moving on now, continuing on the theme of visitors by air. The Opposition regret that the Fly Gibraltar operation looks as if it is not going to materialise. This was a project that we welcomed at the time. We supported, and we continue to support, the idea of an airline based in Gibraltar and we support the idea of flights between Gibraltar and more destinations in the UK and, in this case, flights to Ireland for the first time. When the project was launched in August of 2006, the Government were very closely identified with it. The Minister for Tourism was present at the press conference and the Government issued a statement on

the matter. In that statement, the Minister is quoted as saying that the initiative is typical of the investor confidence that exists in Gibraltar in the current economic climate. In that context, now that the Fly Gibraltar project is not going to happen, I am not quite sure what the Minister would consider that it says. This reminds me of the similar situation that arose with regard to Fly Europa. The House will recall that that Government announced flights to London Stanstead and Manchester airports and that these flights too never materialised. We have no doubt that Fly Gibraltar would have been good for Gibraltar. Indeed, the latest figures show that air arrivals from the United Kingdom have dropped in 2006 from what they were in 2005. They also show that from January to April 2007 there were less UK arrivals by air than in the corresponding period in 2006. The main reason for the drop is probably the loss of two air routes, one the British Airways flight to London Heathrow and the other the Monarch Airlines flight to Manchester. It seems that our share of the market is being lost to Malaga and to other Spanish airports as over 8000 people last year presumably chose to fly directly to their destination from elsewhere, rather than break their journey in Gatwick or Luton. Again last year the Minister gave a pre-announcement that an announcement on other UK carriers flying to Gibraltar may be made shortly afterwards. Once again we regret that nothing has happened and that we continue with the same two carriers that we have had to the United Kingdom, only that we do so with two less routes.

I would like to move on now to tourism by land. Every year, as the Government know, the Opposition highlight the fact that the number of tourist coaches coming into Gibraltar has fallen, and continues to fall. There is a corresponding drop in the number of coach passengers as well. Every year the Government come up with a different explanation. Excuse after excuse given by the Government have been examined and rebutted by the Opposition. Last year, and again repeated this year, the Minister finally declared that the Government did not attach any importance to the drop in coach arrivals at the Gibraltar coach terminal. Having said that to the House last June, it came as a surprise to us that at the end of the same month the

Government should announce a marketing campaign in Costa hotels which included a presentation to coach tour representatives. The Minister himself was quoted as saying, "It is important that we support the popularity that Gibraltar enjoys as a day trip destination on the Costa del Sol. The market sector is significant for Gibraltar's tourism industry..." So Mr Speaker, it was not of importance to the Government that coach numbers were and are declining, but that that same market is significant for Gibraltar's tourism industry. I am sure that there is a contradiction in there somewhere. The Government have again highlighted that the number of visitor arrivals by land has increased from 7.4 million in 2005 to 7.8 million in 2006. The Opposition have often pointed out that when they were elected in 1996, the year in which they came into office, there were already 6.5 million visitors coming in to Gibraltar. We have also pointed out, given that non-Gibraltarian frontier workers are included in the figures, as they have always been, that the increase could simply reflect more frontier workers and may not only be tourists. In other words, on the assumption that a frontier worker crosses into Gibraltar once a day every weekday, an increase of 400,000 crossings could simply reflect an increase of 1,500 non-Gibraltarian frontier workers. It is well known that there is a proportion of unregistered frontier workers who are not included in the official employment figures but who would be counted for visitor arrival purposes as they cross the border. The Government, need to be careful about the claims that they make in this area. It is also important to note that the whole point of marketing Gibraltar is so that more money is spent in our economy by visitors. In 2006, although there were marginally more people, the overall amount spent by tourists seems to have stagnated compared to what they spent last year. In real terms, this represents a decline in purchasing power.

In relation to my responsibility for the Port, there is one specific area which I would like to touch upon. In the report of the Principal Auditor for 2005/2006, the Auditor expressed his concern that there was no system in place to allow the Port Department to verify the accuracy of returns submitted by yacht

marinas on the number of berths and the amounts paid. The House will recall that the Opposition voted against this Bill when it was introduced by the Government in 2005. The Auditor says that he was informed that since the closure of the Yacht Reporting Berth in December 2005, and the new reporting arrangements which places the responsibility on the marinas, it is practically impossible for the Port Department to check the number of arrivals. That number, the number of yacht arrivals, continues to fall according to the latest figures. I understand that Shepherd's Marina is now closed while the Ocean Village development is going up. However, this is a trend which goes back a number of years before the marina closed down. In 2006 there were only 3,112 yacht arrivals, which compares unfavourably with the figure 5,042 for the year 1996 which is the year in which the hon Members came into office.

Mr Speaker, the lack of a development plan is obviously coupled to the sad demise of Gibraltar's public seafront. We know and we understand that there are plans for new marinas in different locations. However, ordinary people for whom boating is a hobby and who cannot afford their going rates, have become the victims of the uncontrolled development of our seafront. Berths for many local small boat owners are severely lacking, and the general public as a whole have been systematically denied access to more and more of our seafront. We find ourselves, in the incongruous position of being practically surrounded by the sea, yet access to it is limited in this way.

In conclusion Mr Speaker, many of these concerns that I have outlined today are concerns that the Opposition have expressed before. In many cases, the issues that we highlight in relation, for example, to development and planning are a consequence of constituents bringing these matters to our attention. They have a right to complain to their elected representatives, and we have the right to raise the issues that concern them in this House or outside it. I take this opportunity to thank you, the Clerk and the staff of the Parliament for their assistance and support throughout the year.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 28th June 2007 at 11.30 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 6.30 p.m. on Wednesday 27th June 2007.

THURSDAY 28TH JUNE 2007

The House resumed at 11.30 a.m.

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

ABSENT:

The Hon Miss M I Montegriffo
The Hon L A Randall

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

THE APPROPRIATION ACT 2007 (Continued)

HON CHIEF MINISTER:

Mr Speaker, it is now my honour and, I have to admit, not particularly onerous task of replying to the contributions of the Opposition Members. Let me start by saying that I think that we on this side of the House, and indeed everybody else, is entitled to interpret the fact that the Leader of the Opposition can speak for over an hour on the economy and public finances, without having anything to say about the current position and, instead, dedicating himself to, I have to say, inaccurate assessment of his interpretation of the events of two or three years ago, I think stands as the most articulate testament of the excellent state of the economy, and the excellent measure of economic success that the Government's economic policy has brought to Gibraltar. There is no other explanation for the fact that the Leader of the Opposition has nothing adverse whatsoever to say about either

the state of public finances or the state of the economy. I can well understand how difficult it must be to have to give a Budget address on the state of the economy from the Opposition benches at this point in Gibraltar's affairs, because it must be difficult for Oppositions to challenge an economy that is performing by almost every indicator at record levels, and I sympathise with him. Nevertheless, the realities are there for all to see. That is, for all to see who open their eyes and for all to see who do not have some pathological party political need to pretend that black is white, that white is black and that grey does not exist. As always, and I suppose it is about the only thing that he can resort to. If the figures, which match the reality that everybody can see with their own eyes, is of a booming, buoyant economy, the only option, the only mechanism, the only device open to the Leader of the Opposition is to rubbish the figures, rubbish the speaker and rubbish everybody that has anything in Government to do with economic measurement and economic statistics. Let us see if by suggesting that the Chief Minister does not know what he is talking about, that the Government Statisticians do not know what they are talking about, that the people that advise the Government in the Treasury do not know what they are talking about, let us see if by slurring the statistics, if by throwing mud at the statistics we can actually make 30,000 people, who feel in their flesh and blood the effects of the economy, let us see if we cannot persuade them that the economy cannot be as good as this ignorant, ill-informed, innumerate Finance Minister and Chief Minister suggests. I do not blame him for having to resort to argumentative devices of that sort, because it is clear to everybody that he has no other mechanism open to him. But it does nothing for his credibility and it does even less for his waning reputation as a supposed economist. Let us see who exactly it is that does not know what they are talking about. Let us see exactly who it is that gets into trouble when they talk about things, which either they do not understand or, more likely, feel some party political need to deal with, because it is not I, it is he.

Let me start by his reference to the fact that the audited accounts are available sooner this year because of the new Constitution, and that they no longer have to go to the Governor and this has resulted in the Principal Auditor being able to get them to this House sooner. That is complete and utter nonsense. It has nothing to do with the new Constitution, it has nothing to do with the fact that the Principal Auditor now lays the audited accounts directly in this House and it has nothing to do with the fact that they no longer have to go to the Governor, which fact never added any delay to the tabling of the audited accounts in the first place. It is due entirely to the public administration-wide effort to produce public statistics increasingly faster and, certainly, very much faster than the Opposition Members felt any inclination to do when they were in office. So now they get their surveys more quickly and they get the accounts of the Government of Gibraltar, audited. By the way it is not the Auditor who produces the accounts, it is the Government that produce the accounts and the Auditor audits them. What the Auditor has done is, pursuant to a public sector-wide attempt to accelerate the process of production of public statistics, that he has contributed to it by conducting his audit more quickly, as a natural extension of the effort going on right across Government to improve the quality and the timeliness of the statistics. Nothing whatsoever to do with any of the reasons that the Leader of the Opposition said. About the only thing he said that is accurate, and with which I agree, is that the Principal Auditor is to be congratulated, as many other officials in the Government are to be congratulated, for the much faster speed with which public statistics are now produced, published and made available to this House. What would we have done when we were in Opposition to have had at Budget time, not just the completeness of the financial statistics that they now have, but the surveys and reports and accounts that they now have available to them in time for the Budget discussions, as he has himself recognised, which could not have been more than a glint in our eye at the time when he was in a position to be making those decisions.

The Leader of the Opposition raised the question of the effect of the new Constitution on the Appropriation Bill. Well, it may be that with the process of time these things fall to be interpreted in a different way. Ultimately, although it is for the Government to make the first voluntary interpretation, so to speak, it is for others to decide what is the correct interpretation of that constitutional provision. Let me say that, certainly, the Government would not have any great difficulty or objection, if we were all to collectively decide, that the best way to produce Appropriation Bills was as we now produce our figures to the House anyway, which is on the basis of overall revenue and overall expenditure, which is as I have presenting public finance statistics for the last two or three years now. It would not take a huge effort to convert that into the structure of the Appropriation Bill itself. Although I do not think that that is what the Constitution actually says. But, as in any case, we are producing the information and we are providing the information to the House at Budget time, most of it anyway, it is for debate in the future as to whether, regardless of what the Constitution says as a minimum standard, what we as a Parliament choose to do. Perhaps by an amendment to the Public Finance (Control and Audit) Act we can very easily increase the burden of the things that need to be covered by an Appropriation Act. What we cannot do is go below the requirements of the Constitution, but we can go above the requirements of the Constitution in an Act. Let me just refer the Leader of the Opposition to section 69(2) of the Constitution, which he has obviously read as meaning that, perhaps, all the public funds of Gibraltar, he limited himself to Agencies and Authorities, but of course he would not be able to stop at that. If that is what he thought he would have to include Special Funds as well, which are also public funds of Gibraltar. If he wanted to interpret this as he has suggested, it could not be limited to Consolidated Fund, Agencies, Authorities, there would have to be other things thrown in there, for example, Special Funds. But subsection (2) says, and it is unfortunately important to listen to the words right at the very first because the sense is then decided by almost the first three words of the paragraph. It says, "the heads of expenditure contained in the estimates for a financial year" (I am

going to leave out the words in brackets which are irrelevant and just make things harder to follow). “The heads of expenditure contained in the estimates for a financial year shall be included in a bill to be known as an appropriation bill introduced into the Parliament to provide for the issue from the Consolidated Fund and other public funds of Gibraltar, of the necessary funds to meet that expenditure”. So, what has to go into the Appropriation Bill is, what I have previously said, to meet that expenditure. Now, what is that expenditure? Go back to the beginning, “the heads of expenditure contained in the estimates for a financial year”. So, what this means literally, subject to any other interpretation that it may be given, what this means literally is that if the Government on any of the items of expenditure in the Estimates want to spend money from, for example, a Special Fund, that money would have to be in the Appropriation Bill. So, for example, let us just pick any Head from the Appropriation Bill. The Head relating to Housing, or the Head relating to the Environment. If we wanted to use any power under a Special Fund to transfer money, if we wanted to use Special Fund monies on the environment, because that is a Head of Expenditure contained in the Estimates for the financial year, that money could not be spent on the environment without it having been in the Appropriation Bill. That is what the words mean literally. Since the Leader of the Opposition referred to what he thought had been discussions that we had had, I have done some research to see what the thinking was earlier on, because this is a couple of years later. The only thing that I have been able to look at at the moment is this explanatory booklet that they objected to at the time that we published it, because they thought that it was, I think they said it was the use of public funds for a yes vote or something. Anyway, this explanatory booklet, which is what we published at the time of the new Constitution, says “under the new Constitution there would be some changes to the existing provisions which, in effect, bring the text of the Constitution up to date with what has been the practice for some time. Constitutional responsibility for public is transferred to the Minister, provisions are introduced to ensure that Parliament is able to scrutinise and approve all public expenditure and not just expenditure incurred through the

Consolidated Fund”. Now, it is true that there is nothing in the Appropriation Bill that enables Parliament to scrutinise and approve all public expenditure at first sight. But in practice that is the case, because all of these appendices at the back of the Estimates booklet, give the totality of public fund expenditure, except for the Social Insurance Fund, for example, which is not really Government-driven decisions and, by virtue of the linkage to the Consolidated Fund through the subvention contribution vote, the House is able to see the whole picture and question the Government, not just about the monies being spent through the Appropriation mechanism, but also the money being spent in these other Heads. But I accept that whilst it is a continuation of what has been the practice for some time, as this booklet says, it is not provided for in the law in the sense that it is not in the Bill itself, it is not in the Appropriation mechanism itself. I do not believe that that is what section 69(2), the Leader of the Opposition asked for some clarification, I am not in a position to give him authoritative clarification, because of course, the Government are not the judge of what is the proper interpretation of a constitutional provision. Ultimately, if there was a dispute about this, it would be a Court that would decide what is the proper interpretation of this constitutional provision. But, certainly, that is the interpretation that has been placed on it so far, but certainly, the House is free, and I think it is an issue worthy of debate, whether we should do things differently in the future.

HON J J BOSSANO:

Mr Speaker, I was not proposing that we should do anything different. I was asking what was the effect, because in fact, if the provision was not there in the 1969 Constitution and is there in this year's Constitution, and if the book is identical to the one last year, then nothing in this book is the result of a new obligation existing in the Constitution that did not exist before. I was under the impression when we discussed it originally in the Select Committee, when the Government side of the Select Committee proposed it, that what they wanted to do was to put

a requirement in the Constitution that would make it mandatory and not a question for the House, because it would be a constitutional obligation to have to approve expenditure from all the Special Funds. That is what I thought that was intended to do. I am not saying that we want it to do that, I just wanted confirmation that, in fact, there is nothing at the moment happening that was not happening before because of the new Constitution in that area. That is on the basis upon which we have interpreted it, because that is what it looks like. So, that was the clarification that I wanted confirmation from Government that, obviously, they do not think that the result of the new Constitution requires the Estimates to be presented in any way different from the way they were already being presented. I take it that that has been confirmed.

HON CHIEF MINISTER:

Moving on, I think what the Opposition do is that they sit and listen to speeches from Ministers in this House at Budget time, that frankly contain very little aggression and certainly very little hostility towards them, very little personal hostility towards them. Then when they make their own contributions it is full of vitriol of the sort that I will now give examples of. Then when I get up to reply to that, they then come next year to say what an aggressive person I am. Well look, if there is a circle of aggression here it is not started by the Ministers in their speeches, which I have heard not a solitary word of aggression against any Opposition Member, in any of the ministerial speeches this year or last. The aggression is invariably introduced by them when they make their speeches and then when I reply to them, in exercise of my right of reply, this is the cue for them to come next year to say what an aggressive little Chief Minister we have got. Well, I think it is time that the lid is blown off that particular device, because it is all very well for the Hon Mr Bruzon to come to this House in his gentlemanly style, to say that the people of Gibraltar are fed up of the politics of "mala leche", and that the people of Gibraltar are fed up of the politics of the recrimination. This is, obviously, not something

that has been discussed in the Executive of the party of which he is a Member, because certainly, the Leader of the Opposition and the Hon Mr Picardo, have either not heard him express that view before or otherwise do not agree with him. See, first of all the Leader of the Opposition starts with his usual phrase that the Chief Minister does not know what he is talking about, and that he gets into trouble when he deals with things that he does not understand. Now, even ignoring as unrealistic the possibility that anybody out there believes that, well, is that the politics of the recrimination? When the Leader of the Opposition comes here to say that I am a control freak and that I get annoyed and infuriated, and that I suffer from "endemic paranoia", this presumably does not fall into the Hon Mr Bruzon's definition of the politics of the recrimination and the sort of politics that he thinks the people of Gibraltar are fed up with. See, the insults and the aggression always starts from the Opposition and it is time people understood this. Having thrown the hand grenades in without the pin, with their own gratuitous offering of insults across the floor of the House, this then gives them the opportunity to go outside, or better still get somebody to report for them, that the Chief Minister is very intolerant, very arrogant and very aggressive and does not like debate. Well, in this election year, not that I think it will make much difference to their fortunes, but in this election year I am determined not to let them get away with cheap tricks of that sort. See, the Leader of the Opposition's well-worn tactic, I have been doing political battle with him across the floor of this House now since 1990, there is probably nobody in Gibraltar that knows him politically now better than I do, and his tactic is clear. He makes an accusation, alleges that he is about to go on to demonstrate that his allegation is true and then proceeds to do nothing of the sort. So the only thing that sticks is the allegation, because the hon Member does not know what he is talking about. Then he goes on to give us eight pages of mumbo jumbo about the events of 2004/2005 and they prove none of his opening allegations about this business of not knowing what he is talking about, or getting his figures wrong, or this or that. See the hon Member relies, in his debating technique and style, (1) on the unfamiliarity of the listeners with the subject matter; and (2) in the hope that nobody

is going to check the accuracy of his own statements and the accuracy of his own analysis. However many people may write in newspaper reports that the Leader of the Opposition's speech was in keeping with his usual statistics this and statistics that, it is a very inaccurate statistic this and statistic that. Indeed, a completely false analysis. Then he attributes to me sentiments, only for the purposes of shooting down sentiments that only he has attributed to me. Look, if he wants to call me a control freak, actually, on most days of the week I would plead guilty. But then we have to agree what is the definition of a control freak. Perhaps, if he had been a little bit more of a control freak he might have survived in office longer. If by being a control freak he means that because I take responsibility for what happens in Gibraltar, I also take the trouble to make sure that things get done properly and that I know what is going on, by that definition I am a control freak and proud of it. Then he says, because the hon Member, I do not need his permission or approval to make in the House whatever analysis. Well, who has suggested that he needs my permission or approval? Anybody listening to him yesterday or the day before, might be forgiven for thinking that last year I objected, because he said so. The hon Member took objection to my going back to 2003/2004 last year. Well, the hon Member did not take objection. The hon Member is free to say in this House what he likes. That when I reply I point out to him that the points that he has made are wrong, that is not objecting to him having done it in the first place. The hon Member falsely creates the impression that I try to censor what he can say and what he cannot say in this House, when I have done nothing of the sort, only so that people can then hear him say the Chief Minister is not entitled to censor what I say in this House. As if anybody had tried. It is just a false statement, laid as the foundation to justify him saying whatever he then wants to say. The Leader of the Opposition's analysis last year did not annoy me. It gives me great pleasure and satisfaction to be able to show that the hon Member's analyses are wrong, because it is high time that he was deprived of this, in my opinion, completely unjustified reputation for competence. Statistically and economically, I do not believe he is competent at either. Well, the hon Member is

amused by that remark but let us see. So none of his analyses annoyed me, infuriated me, nor are they the result of any endemic paranoia. The hon Member may try to argue with, I think, about as much credibility as, let me just say without very much credibility, that the Chief Minister of Gibraltar that has been in office for 12 years now does not know what he is talking about. But I will tell what the people do understand. I suppose it is just as well that I do not know what I am talking about, because goodness sake, if I did know what I was talking about, what would be the state of the economy? If it is in the hands of somebody who does not know what he is talking about, there are 5,000 more jobs in the economy than he left; there is twice the amount of reserves in the public coffers than he left; the economy has more than doubled in ten years; and public budgetary surpluses have risen to unprecedented record levels. Well, long live people who do not know what they are talking about, because compared to how things were when he, who claims to know what he is talking about, was Chief Minister, if the choice then were given to the electorate by just the comparison of our two records, between having a Chief Minister who knows what he is talking about and having one who does not, on the basis of his performance and mine, I think people would vote for the Chief Minister that he says does not know what he is talking about. We will come to the shame bit in a moment.

Now, it is not that, as he says, I am trying to attack him but look, they have correctly said, almost each of them in their speeches, that they are paid by the taxpayer not to be the cheerleaders of the Government but to criticise the Government, and I agree. So, therefore, when they attack, which is I suppose political jargon for holding to account and the normal political process, when they attack the Government, when the Government respond to that attack the Government are not trying to attack. So I suppose attack is all right when it comes from the Opposition to the Government, but when the Government simply point out that the attack is mistaken, that the attack is misconceived, that the attack is based on a false premise and on a false analysis, then suddenly it is an attack by the Chief

Minister on the Leader of the Opposition. This is just rhetoric, meaningless rhetoric by the Leader of the Opposition. There is no need for the hon Member to toss the coin between whether the proper system for analysing the public finances during this debate on the Appropriation Bill, which we all know relates only to the Consolidated Fund and the Improvement and Development Fund, there is no need for him to toss the coin about whether the right system is the overall revenue and expenditure or the Consolidated Fund revenue and expenditure. Why? Because I give him both. The entirety of public finance presentation that I give him, is both on the basis of the overall figure and the narrower Consolidated Fund figure. Then he says, well the Government's estimate overall is £24 whatever million but, of course, that is not the figure in the Consolidated Fund. I suppose, in the interests of total transparency, he might have gone on to say, which is actually higher than the figure that the Chief Minister has given, because the overall budgetary surplus is £24.3 million or £24.8 million or whatever, and the Consolidated Fund surplus is higher, £25.1 million. So look, there is no point him suggesting that I am giving him the overall figure in order somehow to guild the presentational lily, because the Consolidated Fund figure is higher and would have put the Government in better light. An even bigger budget surplus than the overall figure. Then the usual argument, when are the hon Members going to move on, when are they going to tire about this analysis of the 2003/2004? Does the Leader of the Opposition really think that in election year there are people out there lying awake at night about his interpretation or mine of the statistical analysis, the proper statistical analysis of figures thrown across the floor of this House in 2004? It is nearly three years ago. But look, so this clamp down business, Government have never said that Government Departments are not encouraged to spend as little as possible unnecessarily. That is not a bad thing, that is a good thing. Even when this House has given permission for £100 to be spent, if a good public service can be delivered spending £98 that is good not bad. I have never heard an Opposition party arguing that public expenditure should be higher and that any saving is bad. But see, not even that is the point at issue between us argumentatively, because

he always, as always, he replies to a different sentiment to the one that he attributes to the Government. Rather, he attributes to the Government a different point, a different statement than the one that is actually made. We did not say that there had not been a saving as against authorised expenditure estimates. What we said was that it was not rational, it was not logical, to describe as a clamp down on expenditure, expenditure which was much higher than last year's but not quite as high as could have been. For example, if last year we spent £10 and this year we give ourselves permission to spend up to £12, but in fact we spend £11.95, to say that we are clamping down on expenditure even though it is £1.95 more than last year's £10, only because we have not spent the last 5 pence that we had legal cover to spend, is, I believe, dishonest use of language. They could have said, the hon Members chose not to spend as much money as they legally could have spent. That would have been an accurate statement. But to use the phrase "clamp down" sends the signal that the Government are reducing, not significantly increasing as we were doing, even in the year that he says we were clamping down on expenditure, expenditure in fact was rising substantially. But in any case it is not clamping down. He might have said, well I wish that he had spent even more, but that is not clamping down and that is the argument. So, if he wants let him address this argument, because he might disagree with me even on what I am saying now but at least, he will be addressing what the Government said and disagreeing with what the Government said. As opposed to what he does, which is attribute to the Government a statement that we had not made and then disagrees with the statement that we had not made. I know that the hon Gentleman does not like me to quote figures that tend to cast a shadow of doubt over his allegedly infallible, which is I think the opposite of what they are, analyses of statistics. I know that the Leader of the Opposition spends a lot of time on these issues because it is his hobby but one is not always good at one's hobby, no. For example, I have been trying to play tennis for a long time and I am very, very bad at it, see. So he can spend a lot of time, he can misspend a lot of time on things, it does not mean one gets good at them. See, this Government that stand accused of clamping down on

expenditure, I mean, the Leader of the Opposition could rightly say, look there is a trend of growing expenditure and one year the trend is broken. In the sense that the amount by which it increases compared to the previous year is smaller. Absolutely but that is not a rational assessment of performance. It is obvious that if the Government, either because revenues have fallen or expenditure has risen, that if the Government are heading for a less than ideal budgetary situation in one year, that it will either try to improve revenue quickly or save on expenditure quickly. That is normal budgeting techniques and if that is the extent of the charge, it is a non charge as far as I am concerned. The fact of the matter is that, so that people understand. Or put another way, so that people do not give more credence or more significance that it warrants, the sort of very localised, very one year analysis that the Leader of the Opposition thinks that he has made, the reality of growth in public expenditure, whether it is in absolute or in inflation-adjusted terms, is that it has been huge year after year. I will give the Leader of the Opposition the figures. If he does not save himself by drawing the distinction between pay roll expenditure growth and other departmental charge expenditure growth, let me give them to him in turn. The expenditure on other charges, that is to say, not on payroll, the expenditure in real terms and in absolute terms. In 1999/2000 it was 7.6 per cent gross and 6.3 per cent real; in 2000/2001 it was 12.5 per cent gross and 10.4 per cent real; in 2001/2002 it was 7.1 per cent gross and 6.5 per cent real; in 2002/2003 it was 6.2 per cent gross and 3.4 per cent real; in 2003/2004 it was 7.6 per cent gross and 5.3 per cent real; in 2004/2005 it was 8.1 per cent gross and 4.9 per cent real and in 2005/2006 it was 6.4 per cent gross and 3.7 per cent real. Now, this gives an average, well, let me just give him the figures for the overall. The overall expenditure, because that was just other department charges, in other words, just stripping out Consolidated Fund charges and departmental pay roll costs. Of course, not that the stripping out of departmental pay roll costs is a relevant and meaningful thing to do in the terms of the Leader of the Opposition's analysis, because the reality of it is that most improvements in public service are delivered by pay roll cost, by employing more

doctors; by employing more nurses; by employing more social workers; by employing more care workers. So stripping out pay roll costs is hardly a sensible thing to do when one is trying to assess what has been the real increase in expenditure in terms of funding for departments' new and extra things. So the fact that I am humouring the Leader of the Opposition's analysis is not to be misinterpreted for being anything that I agree with him. But the overall growth in expenditure has been, same years 1998 to now, 5.8 per cent; 7.7 per cent; 8.8 per cent; 2.3 per cent; 10.3 per cent; 0.04 per cent (and that is the year about which he is focussed); 4.3 per cent; 2.7 per cent and we will forget what we are estimating for this year because it has not happened yet. An average of 6.19 per cent. Well, look, the Leader of the Opposition if he wishes can create an atmosphere, or try to generate an atmosphere of shortage of money, or clamping down on expenditure but the reality of it is that most of the criticisms that the Government face from out there, is that we increase public expenditure by too much, not by too little. I do not agree with that because I think that many of Gibraltar's care services needed more investment and needed more recurrent expenditure. But that is the normal accusations that the Government face, not that we do not grow public expenditure by enough. The only point I am trying to make here, is that in focussing in on one year where he says that the Government got into trouble, either because they had over estimated the revenue or under estimated the expenditure, fine. All that may be the case but so what? It does not alter the fact that the overall trend and the overall averages are still one of growth. Nor do I agree, by the way, with what the Leader of the Opposition has said about GDP growing in a year in which the Government revenue grows by less than had been estimated. Well look, the logic behind that statement would be true if the Government were not also cutting taxation. But if the economy grows and the Government give away part of their share of that growth, by cutting taxes and by failing to increase expenditure. Rather, by failing to increase its other revenue raising measures even to keep up with the rate of inflation, it is obvious that Government revenues will grow by much less than the economy. Of course, if I did what he did when he was Chief

Minister, which is to sit in No. 6 Convent Place presiding over a growing economy, not lowering peoples' taxes, increasing peoples' social insurance contributions every year by 10 per cent, not even increasing tax allowances by the rate of inflation, on that basis, of course the Government's share of revenue grows the more the economy grows and in direct proportion. But if as the economy is growing the Government are giving away part of their share of the loot to ordinary citizens, by fixing levels of charges and by paying back money, physically paying back part of their share in that growth through lowering of the rate of taxation, it should not surprise the Leader of the Opposition's allegedly expert analytical mind, that there is a mismatch between, or even a mis-timing between the coincidence of Government revenue increases and extent of GDP growth. Then, frankly, the most astonishing part of the Leader of the Opposition's contribution. Oh by the way, let me just deal with one more point before I move away from his allegedly expert analysis of public finances that show.....

HON F R PICARDO:

On a point of order. Can I just ask the Chief Minister, he has said this repeatedly and he has not been called on it, he keeps saying that the Leader of the Opposition is allegedly this and allegedly that, can he tell the House who he says makes those allegations?

HON CHIEF MINISTER:

This is not the Magistrates' Court as far as I am aware. It seems to me that it is okay for Opposition Members to say that I stand up in this House not knowing what I am talking about. That, indeed, as I am about to remind the Leader of the Opposition, that I come to this House with hair-brained, irrelevant explanations about economically active Gibraltarians in order to hide this and that. But when I say that the Leader of the Opposition is only an alleged expert, what? Am I obliged by

the Rules of the House to recognise an expertise that I do not believe he has? But look, it is evident in what I am saying. We are back to the nervous sixth form debating society techniques. Well, I think what the Hon Mr Picardo should take the view, is that the Leader of the Opposition, who has been in politics as he is always reminding us, and as a street fighter by the way, for 30 odd or 40 years, is more than capable of looking after himself without the hon Member popping up and down like a nervous jack-in-the-box, to protect his honour.

HON F R PICARDO:

Can the Chief Minister not think of anything new to say this year? He has been using the jack-in-the-box and the nervous allegation for four years.

HON CHIEF MINISTER:

Until they invent another toy that does, more or less, the same physical thing. One more point before I move away from public finance. The hon Member should not worry, his turn will come in a while. Just before we move away from public finances, I do believe the Leader of the Opposition made a mistake when he said that sometimes the Chief Minister produces statistics in his address on overall revenue and expenditure that used to include expenditure on the Social Insurance Funds and revenue and expenditure. I happen to have a transcript of his speech, this year I have come prepared. As he has said no he did not, Mr Speaker, with your leave I will just take a few seconds to find the spot.

HON J J BOSSANO:

I can repeat what I said, Mr Speaker. What I said was that in the Approved Estimates of Expenditure book, which is produced after we approve the expenditure, there is a graphic that shows

overall Government expenditure which until the year before last, included Social Insurance receipts and payments and showed £17 million of receipts and £20 million of payments and a difference of £3 million. That graphic, that explanation and that definition was changed in the book last year for the first time. That is what I said so I did not say anything about him saying anything. If that is in doubt, all we have to do is get the copies of the books that I have mentioned, look at the page and it will be seen that what I am saying is absolutely accurate because that is where I got it from.

HON CHIEF MINISTER:

Yes, what the Leader of the Opposition said in fact, this is obviously not Hansard, this is produced by us, so subject to typist's error – another change that has taken place presentationally is that up to the 2005 Budget total, Government revenue and expenditure in the published Approved Estimates book was described as including state pensions and benefits, receipts and payments and that this showed, for example, in respect of 2005/2006 that the receipts were £17 million and were expected to fall short of the payment at £20 million by £3 million. The graphics produced in the approved figure last year, I suspect that the issue here is that it is just imprecise use of language, for the estimated revenues for 2005/2006 have a new definition of total Government revenue and expenditure. Of course, that is the mistake. The graphics produced in the approved figure last year for the estimated revenue and expenditure have a new definition of total Government. That is not the case, no. The approved figure has never included expenditure on the Social Insurance Fund. This is the point I was coming to correct. In other words, that we have not – somebody listening to the Leader of the Opposition yesterday, even if it was not what he intended to project, somebody listening to him yesterday could have come to the erroneous conclusion, unintended by the Leader of the Opposition, that there had been a change in what was included in the figures that I was reading out to the House in terms of overall revenue,

and a change in the basis in which the approved figure (and it is this use of the word “approved” in this sentence here), and it has not. It has never been. I have never included in the figures that I have delivered to this House in my Budget speech, I have never included and I have never excluded – they have never been in - expenditure on the Pensions Fund, and they have never formed part of the approved figure.

HON J J BOSSANO:

Even the word “approved figure” is what has been written. What I have said, and I have got the text, was that..... We have a document here that says “draft” and after the House vote there will be a document published which says “approved”. In that document that says Approved Estimates of Revenue and Expenditure, there are on the first pages explanatory graphs for the public to understand what is in the book and what the expenditure is. I was referring to the fact that that was changed last year, excluding what had previously been shown on that page as the receipts and the payments of the Social Insurance Fund. That is what I said and those books are available and anybody can see that that is what it says. I never mentioned him saying anything.

HON CHIEF MINISTER:

The Leader of the Opposition is wrong. The Leader of the Opposition could accurately say, in a booklet entitled Approved Estimates, I mean, when this gets approved by this House at the end of this week, the Government then republish it and it no longer says “Draft Estimates” it says “Approved Estimates”.

HON J J BOSSANO:

That is what I have just said.

HON CHIEF MINISTER:

No, that is not what he has just said. If it is what he has just said it is not the point that I am making to him. He could have accurately said, in the booklet that Government publish entitled on the front cover "Approved Government Estimates of Revenue and Expenditure", there were three pages or four which he well knows are not part of the approved estimate, but are there in the form of pie charts, but are not what we have approved, that contains information in pie chart form which includes expenditure, one of which includes expenditure on pensions and social insurance. But it cannot be described as approved. This House does not approve the amount of expenditure or the amount of revenue that is going to be spent, as shown in this slice of the pie chart, separately marked, out of the Pension Funds. Yes, because this is the point that he is not listening to me. He did not say, in the booklet entitled "Approved Estimates" there was this pie chart which included xxxxxx. If he had said that it would have been correct. What he said was that the graphics produced in the approved figure last year. In other words, he was suggesting that the graphics that showed the Social Insurance revenue and expenditure, were the approved figure. It is not the approved figure or disapproved figure, because the House simply does not deal with approving or disapproving that item of revenue and expenditure. But it was contained as graphic pie charts in a booklet marked "Approved Estimates of Revenue and Expenditure". Just as there are things in the Draft Estimates of Revenue and Expenditure booklet, all these pages in green at the back, that are not part of what we are approving. No one is asking the Leader of the Opposition to approve any of the expenditure in any of these green pages that are not contributions from the Consolidated Fund. He knows that that is not xxxxxxxx. All I am saying is, and I am accepting his explanation that he was not intending to convey, but the use of the phrase "the approved figure" gives that wrong impression, which I have just, in passing, tried to correct.

Well, on employment. Well, see the Leader of the Opposition, he says quite a lot of serious things. He says first of all that there is an irrelevant false analysis of economically active Gibraltarians and, what is more, not limited to describing the analysis as false and irrelevant, he then goes on to attribute an evil motive for sitting down to devise this allegedly false and irrelevant analysis. The motive that he, in his furtive mind, comes up with is that it was all a fiendish plan of mine to conceal the number of Gibraltarians that were "losing their jobs to frontier workers". There is almost no part of that statement that is true. Almost no part of that statement that is true. First of all, the analysis of economically active Gibraltarians is statistically correct. It is statistically correct. Secondly, it is not my plan – fiendish or otherwise. When he refers to as rubbish and as irrelevant and as nonsense, this statistical analysis that the Chief Minister makes, what he is describing in those colourful terms is not my handiwork but the handiwork of the Government's professional, senior, Chief Statistician, whose output this is, completely spontaneously, as part of a brief that he provides to me, not produced at my request, not produced therefore by him in order to aid and abet me in some fiendish plan to conceal the number of Gibraltarians that are losing their jobs. See, the Leader of the Opposition's credibility depends on everybody else believing, not only that I am as bad as he thinks, but that most of the Civil Service also is as bad, as dishonest and as misconceived as he thinks I am.

HON J J BOSSANO:

Point of Order. I have not accused anybody in the Civil Service of being bad or dishonest or anything else. Therefore, the Chief Minister is imputing things to me which are totally false and without any basis. Even on the basis of the fact that I think the statements he made last year, which is what I am replying to now, I am replying to what he said last year and to which I was unable to reply to on the spot. Even then, he will find nothing there that says he is being dishonest.

HON CHIEF MINISTER:

Well, I am sorry, imputation is precisely the right word, because if he thinks I come to this House with a cock and bull nonsense story in order to hide and conceal the reality of job losses by Gibraltarians, he is imputing to me an improper and dishonest motive. If the handiwork, if the craftsman, actually is not me but a Civil Servant, then by the same token he is imputing those criteria to the Civil Servant that has done the work. I am sorry if the Leader of the Opposition has got to take responsibility for the natural consequences and the natural logic of the things that he says. Now, this is what he actually said.

MR SPEAKER:

Does the hon Member want a ruling?

HON J J BOSSANO:

What I am saying is, look, I was answering the Chief Minister's figures of last year which I could not answer because he makes his closing speech, and which I would not have answered on the spot. If I was simply saying that what he was saying is rubbish without taking the trouble to check it, I would have done it a year ago. I have taken the trouble to go carefully through everything and I find that his figures make no sense. I assume that he has got a different reason for doing it. Whether the Statistician or whoever produced the figures for him to achieve a particular objective or not, is a matter that only he knows and I do not.

HON CHIEF MINISTER:

It is the same analysis provided as part of a standard annual brief. He cannot defend himself by saying that he was only commenting on last year's analysis. Last year's analysis was the same as this year's analysis, done by the same person, in

exactly the same spontaneous, administrative fashion, not done by me and, certainly, not done by any Civil Servant in the knowledge of some nefarious objective that I might want to put to it. Such as, to quote his exact words, "in order to hide this fact the hon Member came up with the ridiculous argument about economically active Gibraltar population, which he claimed was identified in the 2001 Census". Look, I have not come up with any ridiculous argument. If the argument is ridiculous, and I do not believe that it is, it has been come up with by a Civil Servant, and if it is in order to hide anything, it is not by me. I am sorry, this is the natural consequence of his statement. He thought he was attacking me because he thought that I was the author of this year's and/or last year's analysis. In fact, I have not been the author or the commissioner of either last year's or this year's analysis. It is entirely the spontaneous, unsolicited handiwork of the Government's Chief Statistician. That is the fact, so it is not my putting the Chief Statistician's handiwork to some modified, self-serving purpose. I have limited myself to citing it directly and now I will cite the whole thing for him, because he is wrong. He is wrong when he tells this House that it cannot be extrapolated from the Census. He is wrong when he tells this House that it is wrong because it takes account of frontier workers who were not here on Census night.

HON J J BOSSANO:

I did not say that. What the Chief Minister cannot do is say I cannot say something which I have not said and then pretend to be answering it.

HON CHIEF MINISTER:

Then he knows how I feel because this is what I am suggesting.

HON J J BOSSANO:

I know he said that I am doing it and I am telling him that that is not true. I am not doing it to him, he does it every year. He is saying that I make statements which the record will show I have not made. Now he is about to.....

HON CHIEF MINISTER:

Which statement is that?

HON J J BOSSANO:

The statement that the frontier workers do not form part of the economically active population because they were not here on the day of the Census. I have not said that. I have said the text of the Census, (which I can produce for the Chief Minister) is that the economically active population is based on residence and not on nationality. Those are the words that I used and I was quoting direct from the Census, residence and not nationality. Therefore, if the statement is the economically active population is x, it is x not Gibraltarians, x residents – that is the point I made. Therefore, he cannot say that I said something different.

HON CHIEF MINISTER:

It is the same point. It is exactly the same point made in different language. Look, in order to put it on the record in Hansard, I intend to read out the entirety of the report of the analysis which he thinks is rubbish and that cannot be made, because the Census and the Employment Surveys cannot be made. I think the words he used were “cannot be extrapolated”. He is wrong. Well, if I have to choose between the independent expert statistician Civil Servant and the Leader of the Opposition, it is not a contest. Economically active

Gibraltarians, this is defined. For the purposes of Hansard I am quoting from an economic statistics brief, a paragraph sent to me, I am quoting the whole of the section, I am not selectively quoting from it. “Economically active Gibraltarians. This is defined as the total number of Gibraltarians who are in full time and part time employment, or who are unemployed and seeking work. Following on from my last year’s analysis in the Budget brief, the 2001 Census showed a total of 10,090 economically active Gibraltarians. This figure, on the basis that there has not been any significant change to the age structure of the Gibraltar population over the period of 2001-2006, will have increased to some 11,641. In other words, the economically active Gibraltar population will have increased by 15.4 per cent over the past five years. The equivalent increase last year, in respect of the period 2001-2005, was estimated at plus 11 per cent. In 2001, the Gibraltar population aged 15 and over totalled 18,500, of which 55 per cent were economically active. As at October 2006, this ratio has changed to some 63 per cent compared to 61 per cent as at October 2005. The economically active Gibraltar population thus continues to grow. The following table is of relevance: Gibraltarians, economically active as at 2001 Census, males 5848; females 4242, total 10,090. October 2006 Employment Survey, males 5718; females 4628. Self-employed as per 2001 Census, males 733; females 220. Unemployed as at October 2006, males 176; females 166. Total economically active as at October 2006, therefore, males 6627; females 5014, total 11,641. This growth in the level of economically active Gibraltarians is supported by the results of the Employment Surveys which show that the number of employee jobs held by Gibraltarians increased from 9154 in October 2001 to 10346 in October 2006 – a rise of plus 13 per cent. Thus, employment within the economically active Gibraltar population continues at 97 per cent as at October 2006, almost full employment”. Then he goes on to make a point, with which I will deal with separately. “The point has already been made previously, that as new job opportunities become available in the future, there is thus a higher propensity for these to be taken up by non Gibraltarians, unless there were to be an increase in demand for jobs from presently non

economically active Gibraltarians". End of quote. Not only do I believe that that analysis has credibility and is correct, because it has been given independently of any political purpose to which it may be put by the Civil Service statisticians, but also because on a normal, rational, logical reading it looks correct and it is logical and rational. The only thing that is not rational or logical is the obscene political purpose to which the Leader of the Opposition wants to put it. That is to try and demonstrate something which is not true. Either that there is no real growth in Gibraltar employment, or worse still, that there is Gibraltar employed people who are losing their jobs to frontier workers. Neither of those statements is true, and these are the purposes to which he wants to put these analyses. Of course, in order to demonstrate that something that is untrue is true, he goes to the considerable trouble of rubbishing a perfectly rational, independently generated analysis because, of course, the two do not reconcile. He cannot explain his two false statements without undermining these statistics. But, see, he has got one insuperable obstacle, that these statistics are not produced by politicians. They are not produced by the Government. When they are produced, they are produced by somebody who does not know the purpose for which they are going to be put in political debate, and who does not know the arguments from across the floor that they are going to need to be used to rebut. So, tell me which is more likely to be true, which is more likely to be accurate and which is more likely to be reliable? I, for my part, have no doubt of what the answer to that is. As the Chief Statistician himself says, these figures, this analysis of his is entirely supported by the statistics. It is not as if there was some skewness between these economically active Gibraltarians and other things which corroborate it. They are fully corroborated, this analysis, by the statistics. Look, the Leader of the Opposition points out that there has not been very much growth – in fact, I think his term was, in our watch there has been, at least between 1996 and 2005 there has been a small reduction in male Gibraltar unemployment, I think that was the analysis let me just check. I cannot remember the exact figures but it is correct. By the way, the 2006 statistics then show the figure rising to 5718 – but he was not using the

2006 statistic, he did not have it. Never mind, I am not arguing the figures, I am arguing the relevance of the figures in terms of the political use to which they have been put. Look, of course the number of male Gibraltar workers does not increase and might even, from time to time decrease, because it is a relatively static population. Therefore, it is a question of whether more men have reached working age than have left the working age at the other end upon reaching retirement. It is as simple as the night following day. Let me demonstrate the point. Since 1988, I am going to read to the hon Members the total number of males, that is of men, in employment, in Gibraltar, each year since 1988 to 2006. Hon Members will see how the figure remains almost constant throughout the whole nearly 20 year period, because it has to be like that because the male population of working age is not expanding demographically. I will give him the figures. 1988 – 5413; 1989 – 5550; 1990 – 5623; 1991 – I wonder if it would serve, just to make the point just to give the first two digits, the thousands and the hundreds. I think the Leader of the Opposition knows the point that I am making. I will give the whole figure. 1991 – 5440, I do not know what happened to 180 men between 1990 and 1991 but I do not suppose the hon Member pushed them over the cliff to make them disappear from the face of the earth. 1992 – 5411; 1993 – 5306; 1994 – 5332; 1995 – 5530; 1996 – 5615; 1997 – 5588; 1998 – 5363; 1999 – 5168; 2000 – 5290; 2001 – 5262; 2002 – 5384; 2003 – 5562; 2004 – 5520; 2005 – 5498; 2006 (which he now has but did not have in time to consider yesterday) 5718. So, the Leader of the Opposition can see that whatever may be the level of employment, whatever may be the number of jobs available in the economy, whatever might be the level of economic growth, whatever might be the number of frontier workers, however much flamenco I may be dancing with Mr Pons, does not alter much the number of male Gibraltarians in employment, because it is a finite statistic. It is determined by demographics, not by people losing their jobs to frontier workers. It is a complete distortion of the use of statistics. Never before has the phrase "statistics, statistics and damn statistics", or whatever the phrase is, ever been more soundly demonstrated. Never before has statistics been put to such an

unrepresentative purpose as the Leader of the Opposition did. Look, of course it is true as the figures suggest that the growth in Gibraltar employment has, to a large extent, been fuelled by women. But we know that because that is where the store of economically inactive labour resource lay. Men were already mostly in full employment, it is in women where there was slack to be taken up. It was in women where there was a tendency now to go out to work because of mortgages and young couples with mortgages and needing to get a second income into the home. Why does it surprise the Leader of the Opposition then? I am not sure that he was surprised but why is it noteworthy in his view that the growth in Gibraltar employment should be predominantly up to 2005 in women? It is obvious, it is logical, it is the part of the Gibraltar population that was available to be sucked into new jobs. There were not any men available, propping up street corners as seen in towns in other countries nearby and in Southern Europe. Men loitering in cafeterias during the working day because they could not find work. That is not our problem. This idea that there are sort of bands of unemployed Gibraltar men waiting to find a scarce job, and that they get sort of beaten to them by cross frontier workers, is a figment of the Leader of the Opposition's imagination. In contrast to the figures that I have just given to him about men, the figure for women has risen from 3423 in 1988 up to 3745 in 1996, up to 4372 in 2005 and up to, again, 4628 in 2006. In other words, there are more than 1,200 women, more women in employment in Gibraltar now than in 1988. The Leader of the Opposition's analysis that all of these figures, or any of them, in any computation or in any extrapolation, or in any permutation, demonstrates that Gibraltarians are losing their jobs to frontier workers, is further disproved by the unemployment statistics. Of course, losing one's job to a frontier worker means that in competition, a Gibraltarian versus a frontier worker, the Gibraltarian has been dispossessed of the job, or of the job opportunity, by a Spanish frontier worker. If all that were true, then the unemployment figures of Gibraltarians would have to be rising. Of course, what is not logical is to say the people are very concerned by the frontier workers taking their jobs, but they never end up on the unemployment pile. The Leader of the

Opposition knows that the majority of the jobs being done by frontier workers are being done by frontier workers for two reasons. Firstly, that there is no large supply of Gibraltarian labour left, as I explained last year, at the time that he was accusing me of hiding. Yesterday he came up with the explanation that I put together this cock and bull analysis about economically active Gibraltarians, in order to hide the fact that Gibraltarians were losing their jobs and that all these jobs were for foreigners. Well look, last year far from hiding anything I was giving him the very same explanation. I was telling him that because there was already effectively full employment in Gibraltar, it was obvious that any growth in jobs would have to be filled by people from outside Gibraltar. So I was not hiding it, he may not agree with the explanation and if he did not agree with the explanation it would be wrong. But fine, he might not agree with the explanation but how can he accuse me of hiding something that I myself was asserting? Look, all of these worried people that go to his office because of frontier workers and losing their jobs, I do not know where they are. Now let me give him the unemployment statistics from 1990 to 2006 – Gibraltarians, because I know he likes to debate these things in terms of Gibraltarians. Fine - Gibraltarians. I am not making any point about the shipyard, I am not making any of those points, I am not making any point about why it was up then or down now. We are having a statistical discussion, not a political discussion. In 1990 – 424; 1991 – 621; 1992 – 641; 1993 – 789; 1994 – 541; 1995 – 456; 1996 – 385 (I had barely started dancing flamenco, and already it was down to 385 from 456); 1997 – (I was still learning flamenco then) it was again up to 483; 1998 – 468; 1999 – 341; 2000 – 313; 2001 – 328; 2002 – 345; 2003 – 351; 2004 – 332; 2005 – 325; 2006 – 332. As we have frequently commented in this House in the past, both of us, the unemployed Gibraltarian figure is constant at more or less the same level. Well, look, if the Gibraltarian employment statistic is by consensus static, more or less at the same level, it cannot be because Gibraltarians are losing their jobs, as he said yesterday or the day before, to frontier workers or to anybody else. His analysis of the figures would necessarily have to be accompanied, they would necessarily have to go hand in hand

for his analysis to be correct, with a rise in Gibraltar unemployment. That rise would be the people who went to his office complaining that they have lost their jobs to frontier workers – but they do not exist statistically. The statistics, properly used, do not lie. What lies is the misapplication of statistics by people who want to prove that black is white and white is black. That is when one gets into trouble. There is nothing wrong with the statistics, what is wrong is with the handlers of the statistics. The inescapable reality is that there are, as at October 2006, nearly 1000 more Gibraltarians in employment than there were in 1996. The figure for 1996 was 9,390 and the figure for 2006 was 10,346. That is the inescapable reality and everything else is obfuscation and analysis and interpretation to try and mask the realities. The reality is that thanks to the huge, huge growth that this Government have presided over its economy, there are 1,000 more Gibraltarians that are able to find jobs to help them with their mortgages and to help them with their expenditure. That is the inescapable reality and everything else is a manifestation of the Leader of the Opposition's state of political denial about the truth, and about the facts and about the realities as they are, and about what everybody else knows them to be. If the Leader of the Opposition thinks that he is going to get even the glimpse of an opportunity to fight the next general election on the basis that everybody else in Gibraltar has their head buried in the sand, and only he has clarity of vision, then he is going to be as unsuccessful in the next election as he has been in the last three. Indeed, we will see. Still, I suppose he is still the one who knows what he is talking about and I am still the one who does not. I and everybody else in the Government that contribute to the creation of these public figures. So, it is not I who have concocted any hair brained theory to hide anything. It is he that has undermined the professional work of a professional statistician, in order to hide the fact that the Gibraltarians have many, many more job opportunities and, actually, 1,000 have seized those opportunities now than when he was in office. That is what he is desperate to hide. We know, the Minister for Employment assures me that he is aware, almost on a name by name basis, of who is this list of 300 odd

Gibraltarians, and there are a small group of them that have difficulty finding jobs because of some personal circumstance or other because they have been in trouble with the law, or because they have been in prison, or they have rehabilitated and the Government have a sheltered employment scheme in order to assist those. We know that. We know, do we not, because we have always agreed on this in the past, that the 300 odd Gibraltarians that immovably feature on this list, are not really looking for employment? Which is not to say that there may be a few out there who are in between jobs and not yet in their new one. But no one in Gibraltar can argue that there is a shortage of job opportunities, because, of course, we are also a bit choosy. We do not want to, necessarily work on building sites and we do not necessarily want to work in restaurants as waiters, and in kitchens. There are certain types of jobs which we Gibraltarians do not like to do, do not want our children to do and, therefore, others come from across the frontier, that is, frontier workers, thankfully to do for us. That is not stealing anybody's job. So, I allege to him that his statement that many new jobs are at the expense of Gibraltarians, is a totally false, unsustainable and demonstrably untrue statement.

Next he went on about how growth in the economy is not the only factor that had contributed to increased Government revenues. As if I had said that it was. No, I have never said that collection of arrears is not a component in revenue growth. What I have said, as a general proposition and it is true, is that the fact that Government revenues generally, and from corporation tax in particular, are growing is yet another indicator of the state of buoyancy of the economy. Yet he spends a while, the day before yesterday in his address, disproving the proposition that I had not made. Namely, that all of the growth in revenue was all attributable to economic growth and that none of it was attributed to arrears collection. Well look, it is clear that for every pound of arrears collected, one is increasing the revenue by one pound. I thought that our level of economic debate has transcended the statement of the entirely obvious, but apparently it has not. What I had said, and I will now demonstrate to him, is that corporate profits are growing as a

reflection of the growth and buoyancy in the economy. Or does he think that it is possible, in theory or in practice, for the size of the economy to more than double in ten years without growth in profitability? In other words, that all the growth in the economy is new economic operators coming and none of it is organic growth, or improved profitability by the people who are already there. Is this what this economic expert is expecting us all to believe? Well, he may not think that that is what he has said but the thrust.....

HON J J BOSSANO:

In his judgement.

HON CHIEF MINISTER:

Well, it is not my judgement, it is the figures. We are not talking about collections in a year now, we are talking about tax collected in respect of the year of assessment. So it strips out anything collected in respect of a previous year, any arrears, any hastening, any acceleration, any rushing on the last day of the year to get in £10 million to make the books square, stripping it out of all those features. In the year 2000/2001, well I should say that these are the figures for the top 25, we have not had time to research any more in the time available, the top 25 companies which account for about 60 per cent of the yield. In 2000/2001 £8.9 million; in 2001/2002 £9.1 million; in 2002/2003 £10.1 million; in 2003/2004 £16.2 million; in 2004/2005 £14.9 million; in 2005/2006 £17.1 million and in 2006/2007 £16.2 million. Put another way, the profitability, given that tax rates have not risen, the profitability of the top 25 tax paying companies in Gibraltar has increased from 2000/2001 to 2006/2007 by a factor that has almost doubled the amount of tax that they paid. They paid £8.9 million in 2000/2001 and £16.2 million in 2006/2007. Almost, not quite, almost doubled 80 something per cent, 90 something per cent, I have not had time to do the calculation of profitability increase,

sorry, 82 per cent, it is stated here at the bottom of the page. This reflects growth in company profits of 82 per cent over the last six years. Of course, not evenly spread during the last six years, as he can see from the statistics that I have given him. Now, those figures are not distorted by any carry forward or any arrears of collection. Those are year of assessment generated in respect of liability incurred in respect of that year of assessment. So, the arrears blitz.....

HON J J BOSSANO:

Is he saying that they are the same 25 tax payers throughout?

HON CHIEF MINISTER:

I do not have that information but I believe that that is more or less the expected profile. I can find that out for him but I think it tends to be the onshore banks, the petrol companies and the telephone companies. It tends to be that sort and they do not vary.

I will end my response to him as we end it every year, given that it is almost the last point that he makes in his address. This statement that he makes that it is possible to achieve consistently higher growth, is a complete and utter nonsense. There is nothing that the Government can do more than is already being done to increase rates of growth. It is not possible to stimulate the economy by more capital expenditure. It is not possible to stimulate the economy by making more labour resources available, because they are not available. Of course, if we did get consistently higher rates of growth, they would necessarily have to be even more frontier workers competing, as he believes they do and I do not, with locals for jobs, because there is no way that we can accommodate any more growth without frontier workers. Even the current levels of growth generate extra jobs, mainly for non Gibraltarians. That statement is true. But it is not because it is at the expense of

local jobs because people who are up for local employment are almost all in employment. There is nothing that we can do, there are no strings that can be pulled, to generate more growth. There are constraints, physical constraints. Of course, if to generate more growth would require the building of more houses and the building of more office blocks, then he will have to contend with his colleague sitting to his left, who is terribly upset by the rumblings of concrete ready-mix trucks in our streets.

Mr Speaker, the Hon Mr Bruzon, who made his usual gentle and charming contribution to the Budget address, and whose efforts to introduce less antagonism has not rubbed off on his colleagues, is not right when he says that he stands accused of being an unprincipled political opportunist, or of distorting reality simply because he exposes the facts of a particular case that has been brought to his attention. Of course, if somebody brings a case with a certain set of facts to his attention, I do not accuse him of lying about the facts. If somebody comes to him and says that this, this and that has happened to him, the person that tells him may or may not be telling him the truth, but I do not believe that he embellishes the facts. Where the element of distortion and political opportunism comes is not in that. It is, as I will demonstrate when I answer his colleague, the Hon Mr Picardo, in the distorted purpose to which they put an isolated case. That is the political opportunism. Regardless of the extent to which the case may be exceptional, regardless of the extent to which it may be an extraordinary, exceptional event for which Ministers may not be responsible, regardless of all of that he uses the case, genuine as it is, to make a wider, broad brush, general point to rubbish the Government's performance. That is the element of political opportunism. He does not defend himself effectively from it simply by saying, but this person came to my office to tell me – I have no doubt that the person went to the office to tell him, and I have no doubt that probably the person was telling him the truth, because the system is not perfect. Certainly, it is not possible to have a system that will not generate any degree of disgruntlement, or any degree of grievance, or any number of persons that will go to the Opposition, or to Ministers by the way, to complain about what

has happened to them in the system. But the fact that there are such instances does not justify the use of those instances, however isolated they may be, to make a general case. That is the charge, that is the political opportunism of which the hon Member has been accused in the past by my colleague the Minister for Social Affairs and others, and indeed possibly by me although I do not remember, in last year's Budget speech. I honestly do not know which to believe. He said, as his third main point, I think I am almost quoting him but it is almost a note so he will tell me if I am not quoting him with sufficient precision. Under the GSD, people are afraid of coming to the Opposition. Well, which is it? Are they afraid of coming to the Opposition or are people constantly streaming into the Opposition's office complaining about things that are wrong with the Government, which is what proves that everything that the Government do is wrong and which they come to this House to use as evidence of the Government's disastrous performance? Which is it? Are they afraid of coming or do they come? Only the hon Member opposite could make a point of that nature. See, one cannot argue one thing when it suits one and the opposite when it suits one for the contrary purpose. People either are afraid and do not go, or they are not afraid and go. But if the hon Members, as they have each said, because people come to our offices, the Leader of the Opposition has said it, the other one has said it, he has said it. They know that all these attacks that they make on the Government are true because people come to tell them in their clinics wherever it is that they have got their offices. But how does that sit with his statement? Look, does the hon Member, whose credibility for speaking plainly is possibly higher than some of his colleagues, does the hon Member think he is enhancing that credibility by saying to the people of Gibraltar, who have never felt freer to criticise Government than under this Government, that they are afraid to go to see the Opposition? Are they expecting people, who have been given by this Government the benefit of a Public Service Ombudsman, the benefit of a Citizens Advice Bureau, that have been armed to the teeth by this Government with an independent, statutory complaints procedure in the Health Authority, is he expecting such people to believe him when he says that under this very

Government people are afraid to go to complain with the Opposition? It does not sound true and it cannot be true if the other things that they say are also true, namely, that people come to them to complain. Well, there you are, one cannot have it both ways. I am afraid to say that they have been caught out. It is not good enough for the Government to proceed only for the benefit of the rich. I have already detected that this is the flavour of the election. I have already detected this absolutely. This allegation is only believed by their most die-hard of supporters, it is not even believed by most of their own supporters. I mean, how is it possible for the hon Member to have sat in this House now for nearly four years, seeing what this Government have done for the lowest paid, for those in need of social services, for those most in need in this community, and then to say with a straight face that the Government are only interested in the rich? Well look, this Government that is only interested in the rich, apparently, is the Government that has lowered the poor's tax every year. As opposed to them, who claim to be concerned about the poor and not the rich, who raised their taxes every year. This Government, that apparently only cares for the rich, is the Government that introduced the minimum income guarantee for elderly people with no income, as opposed to that party who claims to be concerned for the poor, who was happy to see them stew with whatever income they could scrape together, for eight years. This Government, that apparently only cares for the rich, *(Interruption)* This Government, that apparently does not care for the poor and only cares for the rich, have swept away taxation on the savings income of the poor and the elderly, have swept taxation of the elderly, have swept away taxation for everybody who earns less than £7,000 a year. Compared to the performance of this Government in looking after the needs of the most needy, the GSLP allegedly socialist Government in eight years, would have put Genghis Khan to shame. Of course, let us not forget that there was a time that the Leader of the Opposition used to brag about not having anything to learn from Mrs Thatcher. So, this image that the Opposition Members hope to creep up to the next general election with, trying to persuade the people of Gibraltar, they should have a little bit more respect for the intelligence of the

people of Gibraltar. Not even their most willing die-hard, paid-up member of the GSLP, could possibly believe that this Government have not done more for the working people and poor people of Gibraltar than any other. Or why does he think that every past and present trade union leader shows political empathy with this party and not with theirs? Why do they accuse? It is precisely obvious – it is because they know which political party in Government has put their money where their mouth is, which political party in Government has demonstrated that they care and put that care into effective action, to improve the condition, not just of the poorest people in Gibraltar but of the workers of Gibraltar? The record speaks for itself. When the time comes, as we creep to the next election, where the hon Members again try to deceive the people of Gibraltar with some such slogan, they can be sure that they will be exposed for their hypocrisy in glorious technicolour. Actually, I do not even think it will be necessary for us to do much exposing, because there can be few people out there that do not know and do not accept, that this Government's record on addressing the needs of the most needy in this community, not just financially needy but socially needy, is infinitely better than the record of the so-called alleged caring socialist Government, which is neither caring nor socialist that we were preceded by.

HON C A BRUZON:

I am sure the Chief Minister is not doing this deliberately, probably inadvertently. But 95 per cent of my speech was on housing. When I made reference to the Government not having provided for the poor and the needy, the whole thrust of my speech was on housing and not really on social affairs.

HON CHIEF MINISTER:

I see, well I accept that as an admission that our record on social affairs is very pro the poorest. It has got to be one or the other. He is either critical of the Government's record on the

poor and social affairs or he is..... *[Interruption]* I can see that the Hon Mr Picardo is the lawyer, not just for people that he is not the lawyer for but, indeed, he is the lawyer for all Opposition Members as well. Anyway, the hon Member is constantly saying, when it suits him of course, that it is important, and it is as pedantic as this, that it is important to comply with the Rules of this House. I do not know if he is familiar with the Rules of this House but there is one, a very well known one that he should be aware by now, which is that no Member should speak from a sedentary position.

MR SPEAKER:

I do think that a certain amount of heckling does contribute to a livelier debate. Certainly, a limited amount.

HON CHIEF MINISTER:

I am not complaining, I agree with Mr Speaker and with the hon Gentleman, that a certain amount of heckling adds to the feistiness. What I am complaining about is his strictness of adherence to the Rules when it suits him and his liberal interpretation of the Rules when it does not. That is what I am complaining about. I only want him to be consistently liberal or consistently strict. Mr Speaker, I suspect even they tire of the phrase “not a single brick” and, of course, it has now become not a single key. Well, that is probably because the bricks are going up but the keys have not yet been handed in. Let us see for how much longer we can carry on spinning this line. We cannot say any more that they have not laid a single brick because, of course, Waterport Terraces is full of bricks, neatly stacked one on top of the other with bits of some cement in between them keeping them together. But of course, we have not yet handed out any keys because the locks have not yet been fitted on the doors. So now we say that not a single key, it used to be not a single brick. Well, the hon Member is wrong when he says that we have given priority based on means and

not on needs. I have explained this to the hon Member before. I wish he would say that he does not agree with my explanation but he cannot carry on repeating his assertion without any acknowledgement of the contrary explanation that he has had. All the people that fell into the category of social need, were accommodated under the allocation criteria. Indeed, there are 80 odd houses left in the Government’s project. The way we did it was not to prefer the people with money rather than the people without money. The way we organised it was so that the people who could afford to buy their own home comfortably, did not benefit from public subsidies through home ownership schemes, at the expense of the Government being able to afford delivering the maximum help to the people who really needed it. So we planned it, very sensibly in my way, to tease out the demand for people who could pay 100 per cent, 90 per cent, 80 per cent, thereby leaving the Government’s capital intact to fully subsidise the cost of people who could not afford it. Result – that everybody has been accommodated. The demand is now coming mainly from single people and students that have not yet got a present social need. Everybody has been accommodated. Those that could afford to pay have paid what they could afford to pay. Those who could not afford to pay are being subsidised to the extent that they need. The Government have not spent money locking up capital in home ownership schemes in favour of people with plenty of money in the bank, and have therefore saved that money to build rental housing for people who cannot afford any sort of affordable housing. Now does that not strike the hon Member as a jolly clever thing to do? Or would he have rather we spent the money subsidising the people, that saving the money in order to go and buy houses elsewhere, at the expense of the Government then not having enough capital left either to subsidise the genuine need affordable home owners, or the people who need new rental homes because they cannot afford even what he and I regard as affordable to buy. So this is not another example of what he likes to call the Government’s haphazard madness. It is another example of the Government doing things better than they used to do it. This business of keys, bricks and people in need. I do not know where this great

conscience was in the days of the GSLP Government, who built practically, I say practically because I think they built a floor on some of the blocks of Laguna Estate, who built practically no rental housing stock. Or were the poor so wealthy under the GSLP Government that everybody could afford to buy a house? What happened to the people who under the GSLP Government could not afford to buy a house? I will tell you, they either were left in the lurch or they were forced into Option C schemes that they could not afford either. That is what happened. Why did not this so-called caring socialist Government that so cares for the needs of the poor and not the rich, why did they not build rental housing estates? In eight years they could at least have started one. No, but I am talking about the party to whose philosophy he has subscribed. I am sorry, this Government's record, and there is no point in accusing us again, look the electorate have already sanitised our sin. They have absolved us from our sin of having delayed in building affordable housing for purchase. Remember, they re-elected us in the year 2003, they re-elected us. So the electorate, even knowing how badly we had done on delay in building affordable housing, nevertheless though that we were still a better Government than them. There is no point harping back to all of this. What the electorate now know is that the Government have done as they said they would. That we have built, in fact, many more affordable houses that we promised to build in the manifesto, and that we are the first Government since Varyl Begg Estate was built to build a large, new rental housing estate in Gibraltar and to politically commit and financially commit to doing it. That is what people know and that is how most people, objectively, will judge us. Not by seven year old accusations that the electorate has already factored last time they were asked to choose between him and me. Whose fault is it, he asked, that there is an insufficient housing stock only during the GSD decade? Well, the hon Member said that we had created the housing waiting lists, that we had created the shortage of rental housing, which is what the housing waiting list is in effect.

HON J J BOSSANO:

It is quoted in the Chronicle.

HON CHIEF MINISTER:

It is quoted in the Chronicle. Well, obviously the Chronicle misheard him too. I am not relying on the Chronicle, I am relying on my own manuscript note from what I took from him at the time. Of course, it is possible that we are both wrong. But what does the hon Member think? That there was not a housing list as long, if not longer, during the days of the GSLP Government. Does the hon Member not know that there has always been insufficient rental housing in Gibraltar? Always, since the day that the housing lists were invented, there has always been a housing list because there has always been insufficient rental housing to meet the demand, Government housing to meet the demand. Does he really believe that this is an ill invented by the GSD Government? Well, he is older than I am, he must have known how the AACR Government used to grapple with the housing list. He must know even how GSLP Housing Ministers used to grapple with the housing waiting list. How can he come to this House to say that the housing waiting list is a problem created by the GSD Government?

HON C A BRUZON:

I think what I said was that if they had looked at the housing waiting list figure in 1996. I did not say that there had not been any long lists of people waiting for housing since the post-war period. Of course there were long lists. But my point was that, and I stand to be corrected, but if the GSD Government when they came into power in 1996 they had looked at the figure of people waiting for housing, if I am not mistaken it must have been between 200 and 400, I really have to check that figure. What I am saying is that since they came into power in 1996, the figure has been growing and growing. If they had not

promised in their manifestos that they would make provision for rental homes if necessary, and for affordable homes, then I would not be asking him to account for what I consider to be a failure.

HON CHIEF MINISTER:

If the hon Member tells me now that that is what he meant to say and that is what he intended to say, of course, I accept him at his word. But that is not what I or the editor of the Gibraltar Chronicle understood him to say. They say the Minister spoke of decades of insufficient Government stock. Surely, it would have been more accurate to have used the word “decade” in the singular, because it was precisely during the decade that they had been in power, that the waiting lists for housing had been rising and rising. The clear meaning of that is that it was not rising and rising before that. The hon Member may now wish to more accurately say what he intended to say, but he cannot argue with what he said when he said it in the first place.

HON C A BRUZON:

Obviously. If in 1996 the figure was between 200 and 400, I wish I had the exact amount, it meant that a few years before that the lists were coming down and down. We cannot change history, that is the point that I am trying to make.

HON CHIEF MINISTER:

That is repeating what he has already said. That is not what he said. The hon Member chose to dissect Gibraltar’s history into decades. The hon Member said Gibraltar has had insufficient housing stock for decades in the plural. He said no, do not say decades, do not blame any other Government. The only decade during which there has been insufficient housing stock is your decade, the GSD decade. I am sorry, he said exactly

what I am saying he said. There has always been insufficient housing stock. There was insufficient rental housing stock in the days of the AACR Government, there was insufficient housing rental stock in the GSLP Government and there was insufficient housing stock in the days of the GSD Government. The only difference is that the GSD Government responded by providing more rental housing stock, Bishop Canilla and choosing to put Edinburgh House out for Government rental, whereas they had intended to sell Edinburgh House. If not, how many rental housing, of which he says there are insufficient, did they create during their eight years in office? But I accept the hon Member’s final statement that he would much prefer a style of politics that was not so full of recrimination. But I also accept the view expressed on that matter, separately but not in response to him, by the Leader of the Opposition. That adversarial politics, which is intrinsically a part of the democratic process, necessarily brings with it a degree of recrimination and a degree of hostility. One cannot have a system of politics that is specifically designed to be adversarial and then expect people to perform in it with a feather duster in their hands. It is just not possible. There can be more or less degree of recrimination but, I am afraid, that his rather utopic aspiration of eliminating recrimination from the political process, I think is a tad over ambitious.

Mr Speaker, the Hon Mr Randall said that because people own 50 per cent of Gibtelecom, it is therefore right that they should have easy access to the accounts which should be on the internet. Anybody hearing him would think that the public only became 50 per cent owners of Gibtelecom on the day that the GSD came into power on 16th May 1996, because when they were in power for eight years, the public was also a 50 per cent shareholder of Gibtelecom, and I do not recall them rushing in the interests of accountability and transparency, putting the accounts on the internet. Indeed, the Hon Mr Randall who made the point, was the Chief Executive Officer of Gibtelecom. He could have put, if this had been his conviction at the time, he could have as a matter of the act of the corporation put the.....
[Interruption] The hon Member cannot interrupt me halfway

through whatever he thinks is a telling point, because he knows I am going to get it out in the end. If the Hon Mr Randall thinks that it is right for these accounts to be, he as Chief Executive Officer, could have put it out on the company web. What I actually recall happening when he was Chief Executive Officer, is that he used to advise Ministers it was commercial in confidence and should not be put out. But of course now that he is no longer the Chief Executive Officer of Gibtelecom, but is sort of now on the Opposition benches, now all of a sudden the world is seen through different tinted eyes. Well, I do not disagree with his suggestion is the reality. But, frankly, he is not the best placed person to suggest that the Government must do this in the interests of anything. The Government might do well to do this but, certainly, he has had opportunities to do it, as indeed, did the party then in Government of which he is now a Member. The Hon Mr Randall, just for clarification for his benefit, the Hon Mr Randall said that he has not seen any tender for the construction of the new prison. The reason for that is that when the Government gives a direct allocation to GJBS, which is a wholly-owned Government company, it does not put the project out to tender. The worst that can happen is that the Government are overcharged. But if the Government are over charged the resulting profit flows to the Government, which is the sole shareholder of the company. So there is no need to put projects out to tender when it is going to GJBS. Putting it out to tender might get them done more cheaply, but as we get the profit it does not make any difference, and in any case, it guarantees that a construction company that employs almost totality Gibraltarian workers should have as much work available as possible. Nor should the Hon Mr Randall think that it is delay that necessarily leads to increase in budgeted costs of profits of projects. There are two things which actually are bigger contributors to the increase in project costs over the estimated budgeted amount rather than delay. One is the accuracy or inaccuracy of the original budget, because that is an estimate. But even once a contract has been allocated, much more likely than delay to increase the cost of the project, is when the Government increase the specification, add

additional works, embellishments, improvements to the scheme, which of course, end up costing more money.

Mr Speaker, I think it was the Hon Mr Linares who then, I think they must have all got together for this purpose, who then said because the Government is interested, (I am not sure I got the whole list, because it was delivered with such panache and with such effective machine-gun rapidity that I just could not get it all down quickly enough, but at least, these items were on the list, possibly some others), this Government is interested only in spin, photo opportunities, prize giving ceremonies, the rich, of course, this is the recurring theme that this Government are only interested in the rich, and that we only do a pittance for everybody else and are not interested in the needs of the majority. Having said all that, as a sort of broad, political, philosophical assessment by the hon Member, known as he is for his astute political assessments, he then narrows it down to "and I will demonstrate this by reference to youth, education, culture and sport". Well, I have already said many of the things that we have done for the poor, which they did not, but for this hon Member to come to this House and say that through the medium of sport he is going to demonstrate that we care for the rich and not for the poor, is the biggest act of political stupidity that I have seen in ten years in this House. He might have picked another issue because sport is precisely the issue where we have spent tens and tens of millions of pounds in building spectacular, new sports facilities, which we have made available free of charge. Now I do not know if it can be made more cheaply available than free of charge – I suppose he thinks we should pay people to come in and use the facilities, which is about the only way that we could take better care of the poor than we are taking already. Not content with building more sports facilities for our youth free of charge for them, this is the Government that only care for the rich and do nothing for the poor, we had to reverse their decision, which they introduced and operated for eight years, of making the poor people who swim have to pay for the privilege of diving into a swimming pool that had been paid for with Gibraltar taxpayers' money in the first place. Now all those poorer people for whom we have only

done a pittance, of which there are hundreds by the way, can dive into the swimming pool free of charge. He might have picked a better subject to suggest that he was going to demonstrate what a dreadfully, mean, pro-rich, anti-poor Government we are. Of course, one thing is that they should assess that this is a vote-winning catchphrase, but surely they are not so silly that they end up believing it themselves. The problem with most catchphrases, of course, is that one ends up repeating it so often that one is in serious danger of persuading oneself that it is true. Truly he has not lost touch with reality to that extent. Well, education, see this is another subject in which he was going to demonstrate what an uncaring Government we are, and how badly we have done for the most needy in our community. Of course, abolishing means testing means that we have done nothing for them. All those thousands of people that used to complain that even though they were amongst the neediest, that they got clobbered for parental grants, contributions, because they were on PAYE. So when we abolish that and everybody now gets the full grant, and when we increase the travel allowances and all the other allowances, which by the way they never used to increase, so how poor students used to travel around the UK at the time of this enlightened pro-poor GSLP Government, I do not know, because we have to come into office to fix that. How the poor disabled people used to live during eight years of GSLP Government, with not a single increase in disability allowance, and how they used to survive until this non-caring, pro-rich GSD Government came in and significantly increased the allowances available to the disabled, I do not know. The hon Members are living a Walter Mitty existence. They are so keen to prove that something is the case, that they ignore all the evidence to the contrary, as if everybody else in Gibraltar were deaf, blind and mute. Well, so here we are, youth and then culture. My goodness, culture, we have done nothing in culture. Never mind that we have nearly tripled the budget spend on culture, never mind that we are spending millions and millions of pounds on recovering important parts of Gibraltar's culture, never mind in sport that we have increased the amount of annual budgetary contribution by the Government to sports associations and

sports by six times. See, all of this is evidence in support of the hon Member's proposition that this Government has been terribly mean in sport to the poorest people of Gibraltar, as opposed to them, who invested nothing in social services, nothing in sport. I remember some Opposition Members saying that there was no value in culture. The Leader of the Opposition used to proudly boast that there was no economic value in music and culture and he was damned if he would spend more money on it. He told me that. So he has picked the wrong subjects. He is stuck with only being able to speak on the subjects for which he is the spokesman, but as there is an instruction that we must all accuse the Government of being pro-rich and anti-poor, he is stuck with trying to prove that proposition in the four subjects on which he is allowed to speak because he is the spokesman. Of course, this gets him into a lot of trouble because it is not true. It is demonstrably not true and he has been given the impossible task, to which he is certainly not up, of proving the impossible. Another generation of Gibraltarians educated in sub-standard conditions. Well, I do not know if the conditions in which any Gibraltarian is being educated are sub-standard or not sub-standard, but if they are sub-standard, given that they are the same conditions as they presided over during eight years, they must have been equally sub-standard then. I have no doubt that when he was President of the Teachers Association, he used to slag the GSLP Government off for sub-standard educational facilities. Look, we all know that some of our schools are in better condition than others. If I say that some schools are in better conditions than others, it means that some are in worse conditions than others. So, presumably he was not an English teacher. Over the last two years, the capital expenditure on the refurbishment of schools has, I am told, been increased by 150 per cent, from £500,000 in 2005/2006 to £1 million in 2006/2007 and £1.25 million this year. Government have already announced plans for the new schools and, I suppose that we shall have to suffer remarks about the sub-standard education conditions in which some of our children are being educated, right up until the time that the key is handed over to the headmistress of the new school, as they have done with the housing. Look, they may be

able to make the same hay that they failed to harvest when they were in office. The hon Member is making political attacks on behalf of an Alliance of which he has chosen to become a part, despite the fact that he led a demonstration to tell the people of Gibraltar what damage was being done to the youth of Gibraltar, whose interests he now represents, by the party that he has now joined, or by the Alliance that he has now joined. In case nobody has heard that remark, what the Hon Mr Picardo has said was that the damage was done by the activity not by the party then in Government. I think that will go down for posterity as one of the best remarks in politics. Now, so we have now dealt with another generation. Of course, the word "another" means that there have been previous generations. I do not think that anybody that sits in this House next to the GSLP, in political alliance with them, should come to this House and accuse anybody of provoking the slippery slope of our youth in our society. It is simply too dangerous a pastime for anybody, politically associated with the GSLP, to come and accuse anybody else of presiding over the slippery slope. We have spent the last ten years trying to scrub the slipperiness off the slope that we inherited from them for our youth. Then he says, "of course all these crimes are being committed because the community service programme is not working properly, kids are locked up and then they come out". Can I remind the hon Member that it was we who introduced the community service programme in the first place. They, when they were in Government, that is to say, his political partners the GSLP, did not think that there was a need for a community service programme, and that all youths who were condemned to prison should serve time in prison. If the hon Member wants to say, "I acknowledge that the Government had the good sense to introduce the community service programme as an alternative to imprisonment for the youth, but that it could be working better", that would probably be something to which we could both subscribe. But to come to this House to say that the problems of our youth result from, amongst other reasons, the fact that the community service programme is not working well, which did not exist at all when the GSLP were in Government, is the height of political nonsense. The hon Member said that building

a sports and leisure centre is not enough to show that we care for our youth. Well, I do not know whether building the sports and leisure centre is not enough, I do not know. It is certainly costing a lot of money. What I do know is that on my watch no youth has died smuggling tobacco in fast launches on the high seas. That I know. So when he says that Casemates is a centre of excellence for drinking, drugs and gang fights, presumably, he means because of the ineptitude of the Government Ministers, because he rushes to say that this is not a criticism of the youth. I do not know whether he thinks that the Ministers are the ones that are provoking the gang fights, the drinking or the drug abuse. Oh, he thinks even Casemates is a bad thing, he thinks that we should never have done Casemates. I remember when we used to be pressed, when is Casemates going to be ready because does the Minister not know that our youth are having to go to La Linea, presumably, to have drinking, drug abuse and gang fights there, instead of here and when is Casemates going to be ready because.... Now he says that Casemates is a bad thing because people drink and use drugs. Then we will leave the listeners, whoever heard him yesterday, to decide what they think he meant by making this point. He went on to say that this was this Government's failure – Casemates is this Government's failure. Look, Casemates is one of this Government's greatest contribution to the quality of leisure life in Gibraltar. That is what Casemates is, because if his solution to the abolition of youth abuse of drugs and alcohol, is simply to deprive them of places in which he thinks they can do it, I do not know what he is going to do. I suppose we will have to impose a curfew, lock them all up at home..... The idea that if Casemates were not there, youth would not abuse drink and youth would not abuse drugs, is a spectacularly silly point. I personally agree with the hon Member that it is not necessary, or justifiable any longer, and should be changed and we will change it, that people cannot get on to the housing list until they are 21 years of age. But can I remind him that it was the GSLP Government that made that decision and imposed it in the housing scheme that they created, which we have inherited and simply continued. So I do not know what has happened to 18 year olds, 19 year old and

20 year olds since 16th May 1996 that suddenly alters the dynamics of whether they should or should not be allowed to be on the housing waiting list. It seems to be like another case of do as I now say and not as I did when I could.

So, to the always entertaining contribution of the Hon Mr Picardo. See, there is no less attractive thing, in my view, than a lawyer who does not prepare properly for court. According to the Hon Mr Picardo, the benefits of everything that the GSD Government have done could have been delivered sooner if the GSLP Government had been elected into office. If the GSLP Government had been elected into office in 1996, none of what has subsequently been done would have been possible, because the fortunes of this community were perched precariously on a thin line, whether we would recover to success or whether we would plummet to dismal failure. I have yet to meet anyone that shares the view, well, at least I have failed to meet anyone that is not a GSLP member or voter, that shares the view. Indeed, the hon Member's views are not shared by the majority of the electorate. I keep on having to say this and it becomes a little bit embarrassing. By more than 50 per cent people in Gibraltar have disagreed with him on three occasions. Now, specifically, to the last election. Hon Members will recall with what passion, not to say volume, he started his address. Because (he gave a list of things) this was in our manifesto and it was not in theirs. Well, he started off by saying, cutting the top rate of tax to 40 per cent is in our manifesto and not in theirs, he accused. Well, he is wrong on both counts. This Government had already cut from 50 per cent to 45 per cent, and in its manifesto said that if re-elected we will continue to be committed to lowering personal taxation to the lowest possible levels. So what we did post election, as we said we would in our manifesto, is simply to carry on with the reductions of tax, in the way in which we have been doing it, including the reduction of the lower rate of it now. It seems to me that the hon Member is familiar neither with our manifesto nor, indeed, with his. He says that cutting the top rate of tax to 40 per cent was in the GSLP manifesto. I tell him that it was not. What was in the GSLP manifesto, which the hon Member

clearly had not bothered to read before he defended it at the polls, and I will quote from it. "The starting rate of income tax will be cut from 17 per cent to 10 per cent". A real conversion if ever there was one. "A GSLP/Liberal Government will restructure the tax system in such a way as to bring", listen carefully, "the effective marginal rate down from 45 per cent to 40 per cent for the middle income taxpayers". This cannot be done by reducing the top rate from 45 per cent to 40 per cent, because (a) he was promising to do it, he was wanting to do it only for middle income taxpayers (whereas the top rate affects all taxpayers, including the highest income taxpayers). So he was not offering to lower the tax rate from 45 per cent to 40 per cent. In fact, he was not offering to lower the tax rate from 45 per cent to 40 per cent for anybody, because what he was offering to do was to bring the effective marginal rate down from 45 per cent to 40 per cent, and one cannot bring the effective marginal rate down by reducing the rate from 45 per cent to 40 per cent. Therefore, there was nothing in his manifesto that means that he was going to reduce the marginal rate, the top rate, from 45 per cent to 40 per cent. Simply not true. He then said, this is when he accused me of stealing his clothes, he then says that what we announced yesterday, what I announced in my Budget address, for divorced women getting a pension was in the GSLP manifesto and it was not in the GSD manifesto. Again, not true. Factually, not true, inaccurate, false statement to the judge by an ill-prepared lawyer. See, just as it is bad to fight elections not knowing what one's own manifesto says, I would have thought it was bad to fight an election not even knowing what an opponent's manifesto says. On page 23 of the manifesto, under the heading social services, under the sub-heading divorced and separated women says, in English, "at present when a woman is divorced she loses all the benefit of future old age pension entitlement based on her ex-husband's contribution. We will introduce a scheme to rectify this". Ergo, statement, that what I announced was not in our manifesto is wrong. False statement by the hon Member to this House, inadequately and insufficiently prepared to make the sort of speech that he made in this House yesterday. The hon Member then says that we have announced a review of GBC without

informing the staff. That is half true and half not. We announced, I announced to the Board of GBC the Government's view that this was a sensible time to do a review, at a meeting that I had with the Board. The Board contains a representative of the staff, and it is the only meeting that I had with anybody, it is the only announcement that we have had – a meeting with the Board in which I say to them, this is a good moment to have a general review of GBC. There was a Board representative present, who is the staff nominee to the Board. I thought that this meant that the management and the employees were being informed at the same time. It now transpires, although I did not know this at the time, that the employee nominee on the Board, apparently is not allowed to tell the staff anything that goes on in the Board. So what exactly is the benefit to the employees of having a member on the Board is not immediately obvious to me. But I am sure it is obvious to those who decided it. So it is not that there was not any consultation, it is that the one and only meeting that there has been and the one and only statement, had both management, Board and staff representatives present and I thought that the staff representative present meant that the staff were being told, and apparently there is a huge Chinese wall. Perhaps that is one of the things that we should look into in the review. The hon Member rather amusingly suggested that the Government might have to limp until the general election in December. Well, if the hon Member describes the Government's performance as limping, then I think his credibility will be even further mocked than it has been by the factual false statements that I have demonstrated that he has made. I remember being taunted by recently defeated GSLP Ministers after 16th May 1996, that the GSD Government would not last six months, and if we limp beyond six months we certainly would not last a year. Well, here we are, three full electoral terms nearly later, with Gibraltar never having had it so good. Then, of course, the hon Member plunged into his usual diatribe about the paper that he has nothing to do with, that he does not represent, that he does not contribute to, that is produced nowhere near his office and that he has no editorial influence over – called the Vox. Now, the Vox newspaper is the latest victim of the Chief Minister's

withdrawing advertising from papers that do not follow the Government's editorial line. He only has to look immediately to his left, to see the Hon Dr J Garcia, son and employee of the Panorama, to know that that statement is demonstrably untrue.

HON DR J J GARCIA:

On a point of order. The point of order, obviously, is not that I am the son, the point of order is that I am not an employee.

HON CHIEF MINISTER:

Oh I see. Well, I beg his pardon, he works for one of the group of companies that works in the vicinity. Well, I am sorry, the Hon Dr Garcia works for one of the companies owned by his father or his family, that works out of the same place as the Panorama. No, would he like to explain it? I am not trying to say that it is not true, by all means clarify it if it is important.

HON DR J J GARCIA:

Just to explain that I work in a different office, in a different building, further along down the road and doing something completely different. Unconnected.

HON CHIEF MINISTER:

This is very well, I think it is absolutely natural.

HON DR J J GARCIA:

The one that is connecting the two is him.

HON CHIEF MINISTER:

It is not connecting any sin, there is nothing wrong with the hon Member working in a company, whether it is owned by his father or not, whether it works in the same building or not, whether he works in the Panorama, there is absolutely nothing wrong with it. That is not the point that I am making. I think it is great that he is helping his father in his business interests. The only point that I am making is that it disproves the hon Member's accusation that the Chief Minister, because he said this was the latest example, so they had others, that it is simply not true that the Chief Minister withdraws advertising from newspapers that do not follow the Government's editorial line. Or when has he ever seen an editorial line in the Panorama favourable to the Government? See, the hon Member says things which are demonstrably untrue and then does not like it, thinks that I am arrogant, when I simply point out to him the obvious, which demonstrate that his accusations are not true. Again, the hon Member disregards the explanations that I have given him. The Government did not withdraw the advertising from the Vox because it did not tow the Government line. The Government withdrew the advertising from Vox when, eventually, despite the Government..... but he has heard all this before from me. But as he makes the same old accusations, despite the explanations, I have to repeat the explanation. Because despite the Government's best efforts to get the Vox to accept the same arrears payments agreements that the Government had given to other newspapers, the Vox refuse to accept that or any other arrears agreement and when it entered into arrears commitment, it breached them, and the Vox was in huge arrears of rent, of rates, of tax, the lot and the Government do not consider it appropriate to pump money into an organisation that thinks that it can do whatever it likes with that money, except comply with the law, except comply with taxes, whatever may be the degree of facility given. That is why the Government removed the adverts from Vox. If the other case that he is talking about by any chance is the New People, that of course has nothing to do with the GSLP, we are told. But if that were the other case to which he is by chance referring, it is not true

either. This Government, this Chief Minister, has not withdrawn advertising from the New People, because that particular newspaper never had advertising from the Government, even when the GSLP party, that of course has nothing to do with the New People, were the party of Government. So we have withdrawn nothing from the New People newspaper. The previous Government of the GSLP, that of course has nothing to do with the New People, thought it right and proper that the New People should not receive advertisements from the Government. Presumably, to prove that they did not have anything to do with it. All we have done is continue that. We have withdrawn nothing from them. So can I ask the hon Member, if he is intent on continuing with this particular hobby horse, at least to make his allegations factually accurate, and to use language which is accurate and not language which is false. I know that it is unlikely to be a quality that appeals to the hon Member, only to say things that are true. He says that people in Gibraltar are clever and fair. Yes, people in Gibraltar are clever and fair and that is their biggest electoral problem for the Opposition. Absolutely, because the people in Gibraltar are clever and fair. The 7 Day newspaper has not received a subsidy of £70,000 per annum from the Government, as the hon Member, again, falsely declares. Whilst Vox has its advertising cut off, he went on to add. I have already explained about the Vox and the 7 Day newspaper is simply being treated like all other newspapers, including the Panorama, 7 Days, the Chronicle and everybody else. Then he moved on to the subject that he does not represent anybody in, that is, the subject of the Minister for Justice and the Justice Bill. Again, he does not represent anybody there. We must have a Minister with responsibility for prosecutions, he said. I said, well he must have made a mistake. He cannot mean what I have just heard him to say. About the only thing that it would be constitutionally improper, impossible and politically wrong, for there to be a Minister for is for prosecutions. He has got it all the wrong way round. It is precisely on matters to do with prosecution that politicians must not interfere, because the Attorney General as Director of Public Prosecutions, is constitutionally independent and must remain so, and it is in everything else where every

other democratic country in the world has a Minister for Justice. So, we have to assume that in the unlikely event that the hon Members were to find themselves in Government after the next elections, he would have a Minister for prosecutions, and unlike every other democracy in the world, he would not have a Minister for Justice. Well, how far is the hon Member going to stretch his credibility just to help and support the views of people that he does not represent? I repeat what I have said to him before. It is precisely politicians, because they are accountable to Parliament, because they are accountable to the electorate, because the electorate can hire and fire them regularly for misbehaviour. It is precisely politicians that are best entrusted with powers that affect people's ordinary lives. The alternative seat of those powers are people who are neither transparent, nor accountable, nor hireable, nor fireable. I suppose he thinks that that is a better depository of power in a democracy. We must agree to disagree. Then, the Leader of the Opposition accuses me of getting into difficulty by straying into areas that I do not understand. Well, never could it have been more better applied to the hon Member's contribution in relation to health. It is not possible for the Hon Mr Picardo, who is a lawyer, to have such an inept understanding of the public finance initiative models, for him to say something quite as absurd as, you sold the building for £8.5 million and then rented it for £3.5 million, that is to say, a year, that is almost half the rent. What is the matter with the hon Member? Did he spend not more than 15 minutes preparing for his address? Or does the hon Member really think that that £3.5 million is rent, simply rent, for a building that we had just sold for £8.5 million? Well he is shaking his head but if he did not think it, it is even more serious because he said it knowing it not to be true. I am sorry, "you sold the building for a snip", were his exact words, "at £8.5 million and then you leased it back for 30 years at £3 million rent, for a building that you have sold for £8.5 million". That is what he said. It is mind-boggling that the hon Member could be so ill-informed, or where does he think that the other £50 million odd to convert the building that we sold for a snip, to convert it into a hospital, who does he think has funded that? Who does he think has provided that capital if not RBS? Does he not

understand the transaction? We sell the building to RBS for £8.5 million, they spend £50 million odd of their money converting it into a hospital and then I rent a spanking £50 million hospital for £3 million odd, now crept up to £4.something million because we have increased the..... That is the transaction. It is mind blowing that the hon Member should think that he can, with faith to the truth and accuracy, describe that as selling a building for a snip at £8.5 million and then going off to rent it back for £3 million a year. He said it was a bad deal for Gibraltar, an albatross around the neck of the GHA forever. It is the opposite of a bad deal for Gibraltar and it is the opposite of an albatross around the neck of the GHA. It is raising finance at very attractive rates, about 5.5 per cent, against increases in which we have hedged and which, to boot, we can get out of whenever we like and which, to boot, even if we allow it to run to the end of the period, the hospital becomes ours. The one that he thinks that we sold for a snip and which they spent £50 million odd into converting into a hospital. Only somebody who either does not know the facts, or who knows them but does not understand them, could so thoroughly have misrepresented, mis-characterised the situation as he did it yesterday. There is no hiding place for the hon Member on this issue. Imagine, he asked rhetorically, what we could have done for £130 million in health care. What £130 million? We have not spent the first £60 million, RBS have spent the first £60 million. We are getting a state of the art hospital, the envy of many European capital cities, for an annual outlay that is around 5 per cent of the health budget in the year, 5 per cent. When it is all done and dusted, the hospital is ours and the building, and he thinks that that is a bad deal. God help this community if he should ever find himself in a position of being in the government of it, let alone in the leadership of it, if he is going to make statements and analyses of that quality. I can only hope that if he should ever find himself in Government, he will be a bit more thorough in his research and his preparation for the decisions that he makes and the statements that he makes. Then we had this palaver about the stitches and the surgical gloves. See, if I could just through Mr Speaker, of course, address the Hon Mr Bruzon. This is what we mean by the abuse, the political abuse

of isolated cases – not that there was such a case, by the way – for political opportunism. Even if it had been true that there had been an occasion on which there was a surgical glove missing, or a stitch missing, do they honestly think that that is a statement or an event which justifies the entire denigration of the Government's whole health policy, the new hospital and everything else. Or was it not just semantic demagoguery? Was it not just the abuse of a non-existent, isolated case in order to politically, opportunistically misrepresent and distort the position? Frankly, if the only thing that the hon Member can say about the new hospital is that he has been told, wrongly, that on one day there was a glove or a stitch missing, well then frankly, that is a huge monument to success of the Government's policy. Or does he really think that even if that incident were true, which it is not, that this is evidence of under funding of a hospital? So this Government that has trebled spending on health, that has recruited almost twice the number of doctors, hugely more nurses, expanded the depth and width of medical services, is then denying them £1 to buy stitches to finish an operation so that the patient does not die under anaesthetic whilst they trot up the hill to the Naval Hospital to get a stitch. Is that the message that the hon Member wants the people that he hopes to persuade to vote for him in the future to believe? Good, he has said yes, another nail in the hon Member's credibility, because I have to tell him that never in its entire history has a Gibraltar hospital been better equipped, better stocked with consumable reserves, better equipped with a consumables re-ordering protocol than it is now. Never, ever, has a hospital in Gibraltar spent more money on medical consumables, the very things he was talking about yesterday, and many hundreds of thousands of other items, never, ever before than now. Never. It is not true that any patient was left on an operating theatre because they suddenly realised they did not have stitches. It is not true. The staff at the hospital, that is both management and the theatre staff, have no knowledge of a surgeon turning up for an operation and having no gloves. No knowledge of it. So if the hon Member, against my personal assurance that we will not instantly sack the surgeon in question, because of course he would be afraid under this GSD Government, so against my

personal assurance that absolutely no action will be taken against his source, if he wants to demonstrate that his story is true let him write to me and tell me who has told him that, who was the doctor, what was the day, what was the operation and when. Against my personal assurance, here uttered in public, that absolutely no action of any measure will be taken. If he does not he will forgive me for thinking that he is, at the very least, guilting the lily and at the very worst, hugely exaggerating what he may have been told, and even worse than that, misrepresenting what he may have been told. It is not good enough for Opposition Members to come to this House throwing wild, speculative and unspecific allegations into the wind and never being willing to put us in possession of facts, that enable us to see whether what they are saying is true or not. I am telling him it is not true. *[Interruption]* Well, fine, prove it. Lack of supplies have never caused a problem for any patient. It is true that there was for a period of time a delay of between six and eight weeks in the typing of X-ray reports. I understand that is now down to around two weeks and operating well. The ambulance service. The Government have negotiated an agreement with the Transport and General Workers Union, put to and accepted by the ambulance workers, which does not contain any of the improperly accommodated issues that the hon Member brings to this House. It is true that during that negotiation the staff side asked the Government to provide them with a common room where they could have their recreational facilities, their televisions and their things for when they are not out on emergency calls. The Government said that they could not do this. Before they came to the GHA, the Government said that if they came to the GHA, this was not possible for two reasons. First, that the hospital is full of people who work shifts, full of people who work nights and they do not put their feet up watching television when there is nothing to do. Secondly, that the whole purpose of bringing them to the GHA was so that they would be, when they are not out on emergency calls, that they would be in the Accident & Emergency Ward becoming proficient in emergency treatments, getting trained up, getting trained up to paramedical status and that the intention was not that they should sit in a common room watching television whilst

they were not out on a call. Although we recognise that that is what used to prevail in the St Johns Ambulance, because that was exclusively an ambulance service and, of course, if one is on emergency ambulance duty and there is not an emergency call, one sits there until the phone rings. Whilst the phone rings one sits there watching television, or talking, or chatting, or reading a book – I do not criticise that, but that was a different regime. What we offered to them was, come to the GHA, earn more money, let us train you in the Accident & Emergency Department and by portering patients to the hospital to operations, get the opportunity, therefore, to train up to paramedical status and earn even more, integrate into the GHA and they all voted in favour of it. With the exception of one or two, who are presumably the one or two that have gone to his office. The one or two who neither voted in favour of the deal, nor are afraid of going to see the Opposition. Their 18 hour shift, which they previously suffered rather than enjoyed, the previous 18 hour shift that they suffered in the St John Ambulance was reduced to 12 hour shifts. This was all negotiated and agreed, 15 hour shift, I beg your pardon, not 18 hour shifts. That which was negotiated and agreed as part of the huge improvement of their conditions and prospects is what the hon Member then brings to this House, in the Budget session, to demonstrate that the ambulance service is not properly accommodated in the GHA. Look, why should the GHA provide these facilities for its ambulance drivers and not to its nurses and doctors? Integrating into the GHA St Bernard's Hospital means integrating for all purposes, not just to get more money.

HON J J BOSSANO:

Was this not a Government initiative?

HON CHIEF MINISTER:

Yes, the Government offered it to them. The Government offered them the opportunity and offered them a negotiation, and left it open for them to decide whether they wanted to move or not, depending on the outcome of the negotiation. So it was our initiative in the sense that we proposed, not entirely, they had a claim for parity with the GHA and we said we could not pay them parity with the GHA, outside of the GHA, because they are a Government contractor and we cannot export the principle of parity to Government contractors. If they want parity with the GHA, which in principle we are willing to give them, they have got to get into the GHA on negotiated terms. They said, yes please. We then sat down to negotiate a process of which this was one of the issues. This is the point that is made. Unless, of course, he is referring to the vehicles which are parked outside and not garaged, which of course, we hope to fix in due course. I suspect it is not the vehicles that visited him in his office but their drivers. I am just being asked to correct myself. It was parity with the ambulance service in the UK that they wanted, not parity with the GHA, the principle of parity. Again, the Hon Mr Picardo, who mimics his leader's false accusations about nothing being done, people who cannot find jobs and that are being taken by cross frontier workers. Much more is being done for them than the GSLP Government ever did. The very few people that there are in Gibraltar, who due to some personal characteristic are unable to find work, first of all, now have their job getting skills improved in the Job Club that did not exist at the time that they were in office. Secondly, the worst cases are now collected in a sheltered employment scheme, precisely in recognition of the fact that they cannot compete in the open market for jobs. So the truth is the opposite of what the hon Member has said. Then he went on, was it Hobbes who said, somebody said that a little knowledge is a dangerous thing. Of course, the hon Member is not known for his expertise in the Finance Centre. The truth remains the truth year after year. There is no complete volte face on low tax by the Government. Having pinned our colours to the zero tax mast, now going to a low rate of tax because the very arrogant

Chief Minister rooted in arrogance of a man that thinks he always knows best. I think that is what he said. That, as I have told them before, is an untrue statement. Not that I am arrogant or not, others will have to be the judge of that. But because it is not true that this was a Government decision, taken by an arrogant man who always thinks that he knows best. It was at that time, when that decision was taken, the overwhelming, preponderance of advice by the Finance Centre Council, by the Government's tax advice committee, who were consulted and in joint working groups ad nauseum by me personally in meeting after meeting, it was their overwhelming majority, not unanimous advice, overwhelming majority advice that Gibraltar was not then yet ready to go to a flat rate of tax and that what we needed was still a zero tax. The only way that the Government could deliver a zero tax product without falling foul of the EU Rules, was the payroll tax. So this is not a volte face by the Government, this is not a volte face by an arrogant Government, this is not a volte face by a Government that made a decision because they thought they knew better, this is the opposite. This is a Government that always keep their minds open and, unlike the Opposition Members, do not pin their colours to the mast come hell or high water just because they once made a decision. When the Finance Centre is advising us, by overwhelming preponderance of majority, that this is the way forward, the Government take the advice and go that way. When years pass and the circumstances affecting the Finance Centre changes, and the preponderance of a majority advice from the Finance Centre says we no longer think that that is the way to go, we now think that this is the way to go, this arrogant Government that think they can never do wrong and get everything right by themselves, said okay we accept your advice again and will now go this way instead of that way. That is the truth and anything that the hon Member says to the contrary is not the truth. But he cannot know whether that is the truth or not, because he never once came to any meeting but he could ask the partners of his firm that were at the meetings. They will tell him that I am telling the truth and that he is not. If he cares about the truth, that is. If he cares more about the truth than about scoring cheap political points.

MR SPEAKER:

Order, order. Heckling is one thing but making a speech from a sedentary position is another thing.

HON F R PICARDO:

I will say to him that I will not ask them because if I did ask them they might tell me that he is lying. But I will not put them in that position.

HON CHIEF MINISTER:

I doubt very much that any of the honest partners in his law firm, would tell him that I am lying. I doubt it very much because they could not, at least not the ones that were present at the meeting with me. But, of course, the difference between them and him is that he has an interest in cheap political opportunism and they do not. It is not an expensive mistake. The hon Member's lack of familiarity and lack of expertise with the things that he says and speaks about in this House, is legion and it extends not just to the Health Service, and not just to reading manifestos properly or not, but also to what is good for the economy and good to the Finance Centre. Or if not he should ask the hon Member next to him, who finished his speech, the Leader of the Opposition, who finished his speech by saying that we had to be careful not to frighten away our gaming companies. See, the hon Member thinks with blinkers. Finance Centre, Finance Centre, Finance Centre, but the Government do not think just about the Finance Centre, they think about the wider economy. This stupidity that he said that we had done, of not going as soon as possible straight to a low rate, would have decimated the gaming industry, who today pay zero tax on hundreds of millions of pounds of profits, and who he wants to subject to a level of tax immediately, even though they have got three years left of their tax exempt certificate. Thank God for the fact that the economy of Gibraltar is nowhere near in the hands of the

hon Member, because if it were, hundreds and hundreds of Gibraltarians would lose their jobs and the Government would lose millions and millions of pounds of revenue. He does not understand the things that he speaks about. Even in respect of the Finance Centre, the hon Member should go to the banks, that are amongst the most profitable financial services institutions in Gibraltar, making millions of pounds of profit, who presently enjoy tax exemption, and say to them, because I think that the sensible thing to do is to go straight after the decision to an immediate low rate tax, straight on a precipice you will go from paying no tax to whatever rate of tax we decide. The Government's decision to do it in this way is taken only after the most careful consideration. Only after the most careful counter wave of advice and meetings, and opinions and counter balancing and juxtaposing conflicting messages from different areas of the Finance Centre, conflicting needs from different areas of the economy – that is what is reflected in this decision. Not the hon Member's broad brush, five minutes worth of thinking approach to this problem, as with every other thing that he has addressed in this Budget session. Better, frankly, better an allegedly arrogant man that knows what he is doing, than a supposedly non arrogant man that rushes where fools fear to tread. Much better, much better for Gibraltar, much better for the thousands of people whose jobs and personal economies are at stake. But this arrogant man is acting on advice. It is only arrogance if one ignores all the advice and does what one thinks. I assume that he knows what the words mean in the English language. He expressed surprise that the Finance Centre was now a matter for discussion with Spain. Again showing his ignorance of the wishes and needs of the Finance Centre. The Finance Centre is encouraging the Government, which is why the Government put it on the agenda and not Spain. The Finance Centre encourages the Government to seek arrangements with Spain, for example, in areas of double taxation. If he had even the minimum of competence in areas of financial service he would know this. But, of course, he puts his political prejudices, he puts a combination of his political prejudices and his factual ignorance before the considered interests of the people whom he one day hopes to represent.

God help us all. The hon Member ended his contribution by pointing out on the day that Mr Blair had given up his office after ten years, that it was a propitious day for people that had been in office for around ten years, perhaps, to consider leaving. Meaning, or intending to mean, that perhaps I might follow Mr Blair. Well, I have two points to make to the hon Member in answer to that. The first is that he has presumably not overlooked the fact that Mr Blair was removed, not by the electorate, but by his own party. From what I hear, that is much more likely to happen in the Opposition party than in the Government party. The other point that I would make for him is this. Imagine, if he thinks that after eleven and a half years, a successful Chief Minister should stand down, what must he not think of an unsuccessful Leader of the Opposition who has also been Leader of the Opposition for eleven and a half years. Presumably, he thinks that the Leader of the Opposition should stand down as well, which is perhaps what he is after. Now let us see, how else can I try and encourage my great leader to go, so that I can stand in his shoes? Because presumably if he thinks that I should stand down after ten and a half years, presumably he also thinks that the Leader of the Opposition, who has also been in Opposition for eleven and a half years and, to boot, has been rejected by the electorate three times in a row, presumably he thinks he should already have gone. Well, see, even when the hon Member is trying to be humorous in this House, he makes political blunders, at the expense of his leader to whom his comments applied, even more so than to me.

Mr Speaker, the views of the Hon Dr Garcia in respect of the Development Plan are well known, but he thinks that he exaggerates the consequences of the delay in the new Development Plan. Unless he thinks that the GSLP's Development Plan was so terrible that it must not be relied on for a minute longer than necessary. What we are doing at the moment is not a free for all without the Development Plan. What we are doing at the moment is acting consistent with and in accordance with the GSLP's Development Plan. So wherever he sees a development, wherever he sees a building

going up, where he thinks it should not be, he should blame the authors of the GSLP Development Plan. The only thing that we have done to the planning process, which he says we have so discredited, is given people the opportunity to know what is happening before it happens. The only thing that we have changed to the planning process, to which he kept on referring, is that whereas they would approve projects before the citizenry of Gibraltar had even heard that they were going to happen, we have given the citizens of Gibraltar advance notice of planning applications, precisely to give citizens like him the opportunity to express the view in advance of their approval, whether or not that the projects are planned to take place. He may think that this is discrediting the planning process. I think it is a considerable improvement on the one that he had. He asserts confidently that the £3 million have been blown away in the Rosia Cottages and that they will not be recovered. Well, we will see how much of that money is recovered when the Government sell, we will just have to wait and see when the Government sell these four cottages. He then says that, of course, buildings and the sales of buildings, this is not a sign of international confidence. This is just a fast buck for developers because the Government are pushing up prices. First of all, the Government do nothing on prices. But who does he think that these international purchasers are? If not people that have sufficient confidence in Gibraltar to come and buy property in it. How can he say that the construction boom in Gibraltar and the huge demand that there is for real estate in Gibraltar from outside investors, is not a sign of international confidence. What economic theory does this analysis respond to? Yes, we can see what the catchphrases are going to be for the next election. They only care for the rich and they have converted Gibraltar into a concrete jungle. Well, I look forward to a head to head with the Opposition Members on both those counts. On both of them. The Hon Dr Garcia finished by saying, at least when I stopped making notes this was the last thing that he had said, that the Government had presided over the demise of Gibraltar's sea front, and that not enough small berths for boats. I said to myself, my goodness, I do not know whether there are enough berths or not, but there are now certainly more berths in

which the yachts do not sink every time that there is a storm, which are the berths that they created. There are now lovely berths for local small boat owners, in sheltered waters, in splendid private marina like conditions. Now, about the demise of the sea front. I do not know whether the hon Member knows, or whether I have told him before, that the very first decision we made when coming into office was to cancel the planning permission given by the previous GSLP Government to one of their favourite developers, who was proposing to build a row of 2-storey town houses the whole length of the sea front, in front of Morrisons, Westview Park and Harbour Views, in what is now, thanks to the timely election of the GSD Government, a splendid sea front promenade. So far from this Government signalling the demise of Gibraltar's sea front, what this Government have signalled is the salvaging of the sea front of Gibraltar for the people of Gibraltar. Not least, because whenever we have given development rights on the sea front, unlike them, we have insisted on the sea front itself remaining public thoroughfare. Something that they failed to do when they authorised Europort, for example only. So, again, this business of murdering the sea front is a record in which I will gladly fight a head to head with the Opposition Members, because our record is infinitely better than theirs.

In conclusion, the hon Members' contributions to this Budget debate simply confirms the Government's own assessment of the economy. That is, that we are experiencing an unprecedented degree of economic success, from which every individual in Gibraltar is experiencing an unprecedented personal economic benefit, and from which the whole of Gibraltar is deriving an unprecedented degree of social and other public services benefit. That is the reality. None of which, not a single word of which has been contradicted, let alone disproved, by a single thing that any of the Opposition Members have said here in the last three days. I accept that as the best compliment that a politician can be paid in a democracy, the endorsement of his political opponents. I commend the Bill to the House.

HON F R PICARDO:

Before we move on to the next stage of the Bill, can I just draw attention to the rule that says that it is improper for an individual to misrepresent the language of another, because I think it goes to the conclusion of what the Chief Minister said.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

The House recessed at 2.55 p.m.

The House resumed at 4.10 p.m.

COMMITTEE STAGE

HON CHIEF MINISTER:

I have the honour to move that the House do now resolve itself into Committee to consider the Appropriation Bill 2007, clause by clause.

THE APPROPRIATION BILL 2007

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

Clause 2 – Consolidated Fund Expenditure

HEAD 1 – EDUCATION, TRAINING, CIVIC AND CONSUMER AFFAIRS

HEAD 1 – A EDUCATION

HON S E LINARES:

Mr Chairman, the Minister said in his presentation that there were 335 teachers in employment. Can he confirm whether they are on permanent and pensionable status?

HON DR B A LINARES:

That is the complement of permanent and pensionable teachers.

HON S E LINARES:

So what he is confirming is the complement of permanent and pensionable teachers – 335. Can the Minister then state why we have in the estimates 297 plus 14. I would consider the headteachers as teachers, and which I am sure he does as well? This adds up to 311, there seems to be a difference there of about 24.

HON DR B A LINARES:

It includes, in the 335, it includes teachers/instructors in the College, who are also permanent and pensionable.

HON S E LINARES:

Then would the teachers not, the name teachers here in the estimates, I know that in the College of Further Education they were deemed to be lecturers before and they went into the teaching complement. I understand that, but then as a teacher, the word teacher should include those in the College as well. I understand, yes. But there is still a shortfall of two.

HON DR B A LINARES:

It is 297 teachers and 21 teachers in the College.

HON S E LINARES:

I would consider the Principal to be another one as a teacher, so we have 311 plus 22, okay fine.

Subhead 1 – Personal Emoluments

HON J J BOSSANO:

In the personal emoluments I note that we voted last year for salaries £13,100,000, all of which was not spent, and that we are voting the same amount this year. Normally, the personal emoluments every year reflects two things – the annual pay review and the fact that people move up their salary scales. So I am surprised that the figure should be the same for this year as it was for last year.

HON DR B A LINARES:

The pay increase, which is due in September, has not been put into this.

HON J J BOSSANO:

I am aware of that. What I am saying is that last year it was not put in either. So the £13,100,000 last year was before the September pay increase.

HON CHIEF MINISTER:

It had not been agreed yet.

HON J J BOSSANO:

So, it is two years running that it is due, this September and last September?

HON CHIEF MINISTER:

Well, this September is not yet due but will be due.

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

Subheads 2 to 9

MR CHAIRMAN:

Can I just seek Members' approval? The Clerk has drawn to my attention, I am sure Members are aware, Standing Order 43(4) "in the case of Annual Estimates and of Supplementary Estimates at the Committee Stage, the Clerk shall read out in succession the number and title of each Head of Estimates, and the number and title of each sub-head thereof, whereupon such sub-head shall be open to debate and voted on separately". Is it acceptable to Members if the Clerk were to just read say sub-heads 1 to 9 and allow Members to intervene, as and when they think, rather than go through every one? I am most grateful.

HON F R PICARDO:

The Special Education Abroad provision comes to an end. I seem to recall that that was one particular individual who required certain schooling, is that because that individual is now.....?

HON DR B A LINARES:

There are two individuals and because they are over 16 they pass on to Social Services rather than the Education vote.

HON F R PICARDO:

The next one, is this the Instituto Transfronterizo, which is no longer going to have.....?

HON DR B A LINARES:

The Instituto Transfronterizo is dormant.

HON CHIEF MINISTER:

The footnote tells the hon Member that it has moved to another place in the Estimates.

HON F R PICARDO:

But in any event the position is that, is it not? That there is zero spending. I am trying to understand it.

HON CHIEF MINISTER:

In the case it has not incurred any expenditure out of that vote, no.

HON F R PICARDO:

Exactly. It is put in both places so that we can remember where it was and see that it is still there at zero.

HON CHIEF MINISTER:

No. It spent £22,000 last year and is at zero here this year, because it probably says £22,000 in subhead 23 of Head 8A. Let us check. Yes, it is there. Overseas Cooperation £25,000. The rules require us to continue to show, in the page where there is an expenditure, until it disappears from the column on the extreme right under the heading Actual. It has to stay there in italics, at zero, not because it is relevant here for this year's Estimates, but because it is there for last year's forecast outturn, the previous year's Estimates and the year before actual spending.

HON F R PICARDO:

I understand that, and it has been renamed as well.

HON CHIEF MINISTER:

It has been renamed as well.

HON F R PICARDO:

But is it still going to Knightsfield Holdings?

HON CHIEF MINISTER:

Well, it is not booked as Knightsfield Holdings but it might do or it might not do. It is a general vote for a spending now on local cooperation. The Instituto Transfronterizo, as an institution, is dormant because at the other end the new regime in the Diputacion Provincial did some reorganisations at the other end, which others at the other end did not want. There is some kafuffle between them at the other end. But there is local cooperation activity which may take place other than through the Transborder Institute. Whether Knightsfield Holdings will be the channelling for that is not certain.

HON F R PICARDO:

What is the ex-gratia payment which we have made this year of £400?

HON CHIEF MINISTER:

It was made last year.

HON DR B A LINARES:

I know it is to an employee but I cannot remember why we had to pay an ex-gratia payment.

HON CHIEF MINISTER:

We cannot remember the reason but we think that this is two employees, who whilst engaged on official business, suffered either some expense, or some damage, or some loss, or some traffic accident. Some compensation that had to be paid, some sum that had to be paid to Government employees, we think.

HON F R PICARDO:

Booking it as an ex-gratia payment, as the hon Member will know and even with my very limited knowledge of the law, suggests that it is because of a liability of the Government, not because of a liability of any other party which we have made up.

HON CHIEF MINISTER:

Booking it as an ex-gratia payment is precisely to say that it is not because of any legal liability. It is the Government as an employer considers that its employees should not bear the cost, regardless of who has legal responsibility.

HON F R PICARDO:

I do not accept that definition of what ex-gratia is, but it is obvious that I am not going to get any more joy out of what this £400 is.

HON CHIEF MINISTER:

We do not, at this moment in time, know the reason for that £400 and who it was paid for. It was paid ex-gratia to somebody in relation to these matters. I do not see why the Hon Mr Picardo is so surprised.

HON F R PICARDO:

I am surprised because we are here to consider these matters in Committee and to look at the detail of everything, and in this debate is where all the bits of paper that are relevant, or the route map back to those bits of paper, should be available to this House to determine whether the monies of the people of Gibraltar are being spent properly. That is why I am surprised.

HON CHIEF MINISTER:

If the Hon Mr Picardo wants to get technical about it, we are actually here to approve the Estimates of Expenditure for the current year, not to assess the forecast outturn of last year. Which is not to say that we are not happy to give them the information when we have it. But when we do not have it, he should not suggest that we are in breach of anything. We are here, technically, to discuss the column on the extreme left-hand side – the estimate. This is the Committee Stage of the Appropriation Bill to authorise the sums of money under the heading Estimate, not under the heading Forecast Outturn of last year. Now, that does not mean that when they want information about the forecast outturn and we have it we do not give it to them. But he should not go quite so far as to express surprise as the fact that we cannot do it.

HON F R PICARDO:

As far as I am concerned this is the Committee Stage and I am entitled to look at every full stop, dot every I and cross every t.

HON CHIEF MINISTER:

Yes, of the Appropriation Bill.

HON F R PICARDO:

And for which this is a part.

MR CHAIRMAN:

I think the hon Member is entitled to ask and if the answer is not readily available, the hon Member is entitled to say they do not have the information available. As far as I can take it.

Subheads 2 to 9 – were agreed to and stood part of the Bill.

HEAD 1 – B TRAINING

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

HEAD 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 F R PICARDO:

Does the increase of the Cultural Activities amount, from £150,000 to £170,000, include provision for the Autumn Festival the Minister referred us to yesterday, or not?

HON F VINET:

No, the increase first of all from £60,000 of last year's estimate to the forecast outturn, covers payments for Summer Nights, the Cavalcade Grant, Performing Rights Society and other National Week events, which used to be met from the central funds. The increase from £150,000 to £170,000 this year, those additional £20,000 cover the Spring Festival finale. We have not yet attributed a sum towards the Autumn Festival.

HON F R PICARDO:

Is it expected that that is going to happen this year? Is there going to be an Autumn Festival this year?

HON F VINET:

That will be the intention.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – was agreed to and stood part of the Bill.

HEAD 2 – B YOUTH

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 2 – C BROADCASTING

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

HEAD 2 – D SPORT AND LEISURE

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

Subhead 3 – Contribution to Gibraltar Sports & Leisure Authority

HON S E LINARES:

In relation to subhead 3, which is the contribution to the Gibraltar Sports and Leisure Authority and which is £1.7 million, could I take the Minister then to the expenditure of, in the green parts of the page, to the item where it says sports facilities and equipment. It says hockey pitches £10,000; Europa Gymnasium £12,000. Can the Minister state what type of programme they have in Europa Gymnasium that is constantly costing the same amount of money?

HON F VINET:

Yes, the Europa Gymnasium is actually run by GABBA, and they simply then invoice Government for their management of the hall.

HON S E LINARES:

So they invoice £12,000 every year for the upkeep of the Europa Gymnasium?

HON F VINET:

That is correct.

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

HEAD 3 HOUSING

HEAD 3 – A HOUSING – ADMINISTRATION

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

Subhead 4 – Operational Expenses

HON F R PICARDO:

Yes, on subhead 4(a), what has caused the forecast outturn to be as high as it is from an estimate of £6,000? It must obviously be an extraordinary item because it goes back to an estimate of £6,000 again.

HON C BELTRAN:

Yes, these are legal expenses, as it says there very clearly, incurred as and when these cases arise – evictions; difficulties with certain cases; tenancies and so on, where we have to refer these cases for legal advice. So it fluctuates year on year as he will see from the actual expenditure for 2005/2006.

HON J J BOSSANO:

On the Rent Tribunal there was an amount of £1,000 shown at the beginning of the year and zero expenditure, and there was zero in 2005/2006. We have got £1,000 for this year. Is it correct that the Rent Tribunal is no longer operating? I understand from some people that have approached me that they have tried to go and see the Rent Tribunal and they were told it was no longer functioning.

HON C BELTRAN:

I think that the message that may have been relayed to the Leader of the Opposition is the fact that the Tribunal, I think, came up for re-appointment and I think it is being held in abeyance because maybe it has been overtaken by the possibilities of changes that will arise as a result of the Housing Bill that will come before the House very soon.

HON J J BOSSANO:

How long is it since it has been in abeyance?

HON C BELTRAN:

I think maybe two or three weeks, I am not certain about that. But I know I have been talking to my officers about this over the last two to three weeks.

HON J J BOSSANO:

Does the fact that nothing was spent last year mean that, in fact, they had no occasion to transact any business during the course of last year or the preceding year?

HON C BELTRAN:

That is a possibility. I do not have a direct answer for that.

MR CHAIRMAN:

It might help Members to know that I appeared before the Rent Tribunal on 20th March this year, so there was some business transacted.

HON J J BOSSANO:

I am assuming that the £1,000 is put there at the beginning of the year because there is no knowing what they are going to need, because there is no knowing how many times they are going to have to deal with representations from either tenants or landlords. But if there is no money spent, it would indicate to me that they had nothing to do for the last two years. That is why I am asking.

HON CHIEF MINISTER:

Well, what I cannot remember right now is whether there are any expenses incurred in the running of the Tribunal. In other words, let me put it more accurately. The fact that there is no expenditure does not necessarily mean that there is no Rent Tribunal in operation. Unless the Rent Tribunal members were paid, in which case they must be paid from somewhere and it would not be zero. I just cannot remember right now whether the Rent Tribunal is one of those people who work for nothing or for something.

HON J J BOSSANO:

Presumably the £1,000 that the House is asked to appropriate every year is there for a reason. So, it must assume that their existence requires some sort of money.

HON CHIEF MINISTER:

In any case, as the Minister has indicated, if we pass the Housing Bill that is on the Order Paper for this meeting of the House, the Rent Tribunal will cease to exist as an organisation, and will be replaced by this much wider Housing Tribunal.

HON J J BOSSANO:

But would that then still be funded from this subhead or not?

HON CHIEF MINISTER:

Probably not because it is a much wider function and the Financial Secretary may choose to create a new subhead.

HON J J BOSSANO:

But it is not somewhere else in the book?

HON CHIEF MINISTER:

No, because the legislation has not yet been passed.

HON J J BOSSANO:

Perhaps when the hon Member is able to find out what exactly has happened with the Rent Tribunal until now, he will pass me the information.

HON C BELTRAN:

Yes, of course.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – was agreed to and stood part of the Bill.

HEAD 3 – B HOUSING – BUILDINGS AND WORKS

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 4 ENVIRONMENT, ROADS AND UTILITIES

HEAD 4 – A ENVIRONMENT

Subheads 1 to 4 – were agreed to and stood part of the Bill.

Subhead 5 – Natural Environment and Animal Welfare

HON F R PICARDO:

On the running of the Alameda Gardens there is a jump from an estimate of £330,000 to £475,000 outturn. It is going up to £600,000 estimated for next year. Is that contractual or a new contract?

HON J J NETTO:

Yes, a new contract has been entered into with a different salary structure, which obviously meant more earnings for the employees, including a pension provision and the addition of further employees as well.

Subhead 5 – was agreed to and stood part of the Bill.

Subhead 6 – Public Highways – Cleansing and Plants

HON F R PICARDO:

Then in subhead 6(d), which is Master Service Cleansing, there is a £2.3 million estimated forecast outturn for this year. It goes up to £3.4 million and there is a footnote about Heads 3A, 4A and 6B. The 4A is obviously the reference to this amount, where it has always been. I can find £680,000 of expenditure under 3A, and £11,000 of expenditure under 6B, which gives me what would be a forecast outturn, more or less for this year, of £3,021,000, which means there is another almost £460,000 odd of additional expenditure estimated for this year. Is there a reason for that or is it simply a contractual?

HON J J NETTO:

Well, as I said in the passage of the Second Reading in my contribution to the Budget, what can be found here is a combination of having previous expenditure, both in previous years in housing and in tourism, being incorporated into this lump sum. Plus the fact that we renewed the contract and have new additions, new facilities, new services have been incorporated. So it is the new facilities, extended facilities and also the figures that we have seen both in housing and tourism before.

HON F R PICARDO:

I understand that, but what are the new facilities?

HON CHIEF MINISTER:

New areas.

HON F R PICARDO:

What are the new areas that were not covered before?

HON J J NETTO:

It was new areas and, in some areas, an increase in frequency as well as part of the new contract.

HON F R PICARDO:

What are the new areas?

HON J J NETTO:

I could not tell him off the top of my head but this is part of the new contract being in place.

HON J J BOSSANO:

The Minister is asking the House to vote more money for new areas. We are not asking about something that is part of last year's forecast outturn, this is new money for new work. What is the new work? He should know.

HON J J NETTO:

New areas to be cleaned as part of the contract.

HON J J BOSSANO:

Given that there was a contract for the whole of Gibraltar, I mean.....

HON CHIEF MINISTER:

There was not. There are schedules and schedules describing streets.

HON J J BOSSANO:

I accept that, but the original contract that this company had, it is not that this company had some bits that were being cleaned by somebody else. They had the whole of Gibraltar already. So what is the area that they have got under the new contract which they did not have under the old contract? Given that there was nobody else doing any cleaning.

HON J J NETTO:

No, the Leader of the Opposition has assumed that they were doing everything in Gibraltar. What we have found out is that within Gibraltar there were areas which were not included originally in the original contract, and we have been adding on.

HON J J BOSSANO:

But, if we have got a vote for one company with one contract, which is a cleaning contract for the whole of Gibraltar, and this contract is now being renewed and new areas have been

added, and there was no other company with any other contract to clean those areas, is the Minister saying that they have not been cleaned for 11 years and they have only just been discovered?

HON CHIEF MINISTER:

It is £330,000 extra.

HON J J BOSSANO:

£330,000 more, fair enough. It is not that we are against more areas being cleaned.

HON CHIEF MINISTER:

If what the Opposition Members want is a list of both the additional areas and any changes in frequency of pre-existing areas, which might explain the cost, I am sure the Minister will agree to provide them to him. He has not got a copy of the schedules with him.

HON F R PICARDO:

The Chief Minister says the difference is £330,000. I do not get that figure, I get a difference of £461,000 by adding.....

HON CHIEF MINISTER:

Because he is missing £130,000. £130,000 plus £15,000, total £825,000 – add that to the previous £330,000.

HON F R PICARDO:

The £680,000 is in 3A. The £15,000 is in 6B.

HON CHIEF MINISTER:

There are three items there at the bottom, £680,000, £130,000, £15,000. The £680,000 is Head 3A; the £15,000 is Head 4A, 6(c) and the £130,000 is Head 6B Tourism.

HON F R PICARDO:

Head 4A, 6(c), which is the one immediately above. Where is the £130,000 there? Ah, it is in the difference between the £62,000 and the £35,000.

HON CHIEF MINISTER:

Yes.

HON F R PICARDO:

They are reducing it under one Head and moving it slightly to the right.

HON J J NETTO:

Perhaps in relation to the extra duties which the hon Member was seeking to know, one of the extra duties that come to mind is the recycling of tin and glass, which will be another new service within the contract with Master Services. But I will, definitely, write to him.

Subhead 6 – was agreed to and stood part of the Bill.

Subhead 7 – was 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 UTILITIES

Subheads 1 to 6 – were agreed to and stood part of the Bill.

HEAD 5 SOCIAL AFFAIRS

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

Subhead 4 – Operational Expenses

HON F R PICARDO:

The operational expense at 4(c), which is the Grant to Women in Need, goes up to £94,000 from £65,000, is that related to the shelter in any way? Or is that just a year on year increase for them?

HON MRS Y DEL AGUA:

It reflects an increase in the cost of living provided within the Grant to Women in Need, plus the funding for two new employees who were previously employed by GPC Limited. Two new employees.

Subhead 4 – was agreed to and stood part of the Bill.

Subheads 5 to 8 – were agreed to and stood part of the Bill.

Subhead 9 – Contribution to Social Services Agency

HON J J BOSSANO:

Can I ask on subhead 9 in the contribution to the Social Services Agency? In the recurrent expenditure in the Social Services Agency there is £100,000 instead of £526,000 for the workers hostel. Is it that the expenditure has been moved somewhere else?

HON MRS Y DEL AGUA:

He is referring to the appendix of the actual Social Services Agency.

HON J J BOSSANO:

Yes, on page 116, the estimate this year is workers hostel £100,000 instead of £526,000. So I am asking where have the £400,000 been moved to?

HON MRS Y DEL AGUA:

I think, if the Leader of the Opposition will look at the other sections or the previous page, page 115, there has been a redistribution of the different parts – salaries, industrial wages. I think he will find on page 115, personal emoluments for workers hostel. Can he find it?

HON CHIEF MINISTER:

It has been desegregated as salaries. The salaries were incorporated into that figure and now the salaries have been desegregated there.

Subhead 9 – was agreed to and stood part of the Bill.

HEAD 6 TRADE, INDUSTRY, EMPLOYMENT AND COMMUNICATIONS

HEAD 6-A TRADE AND INDUSTRY

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

HON J J BOSSANO:

Is it that the title of Captain of the Port has now been changed, at one stage there was a Chief Executive on the one hand and the Captain of the Port on the other. So what is it? Obviously, the Chief Executive could not become the Captain of the Port because he did not have the necessary maritime qualification, but what is it? Is it that the title has been changed but we still have somebody who has got a Masters ticket and all that who was the Captain of the Port? Is that the position?

HON J J HOLLIDAY:

On retirement of the Captain of the Port, Jimmy Ferro, we decided to amalgamate the functions of the Chief Executive and the Captain of the Port under one person. A new person was appointed to that post with a Masters ticket. One of the functions of the Chief Executive was the promotion of cruising as part of the commercial activities within the Port, and the contract came up for renewal of the Chief Executive. He was then taken on, on a consultancy basis, purely for cruising, at a much reduced, obviously, fee and costs to the department. That function is now being undertaken by this particular person on consultancy only.

HON J J BOSSANO:

Right, but in terms of the Port Department, the Chief Executive was the Chief Executive of the Authority which was, as I understand it, not proceeded with. This is now the Chief Executive of the Port Department not of the Authority.

HON CHIEF MINISTER:

Not of the statutory Port Authority, because the statutory Port Authority has not yet been established. But the Leader of the Opposition knows that the Port Department has been known as a Port authority for many years. But he is right insofar as the words "Port Authority" relate to the new Electricity Authority-like Port Authority that we have been negotiating. That has not yet been.....

Subheads 1 to 9 – were agreed to and stood part of the Bill.

HEAD 6-D MARITIME ADMINISTRATION

Subheads 1 to 6 – were agreed to and stood part of the Bill.

HEAD 6-E AIRPORT

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

Subhead 3 – Running of Airport

HON J J BOSSANO:

The new item which is a contribution to the aerodrome running expenses, there was a forecast outturn of £462,000 which was paid before.....

HON CHIEF MINISTER:

The new arrangements go back to 1st January.

HON J J BOSSANO:

And what is it? That there is an agreed amount that has to be paid? Is there an agreement to pay a certain amount? How are the sums arrived at then?

HON CHIEF MINISTER:

There is an agreement of a list of items. For example, half of the cost of the Defence Fire Service, half of the cost of this, half of the cost of that. So there is a list of items which we agreed to share 50/50. Of course, the cost of those items might increase as the MOD's costs in them increase, pay and all of that. So what is agreed is the percentage share of an agreed list of heads of expenses. So it is not a flat amount. Now, balanced against this is a new item of revenue, which is slightly lower, which hon Members will have seen.

HON J J BOSSANO:

There was no income in respect of the expenditure of the forecast outturn, I take it.

HON CHIEF MINISTER:

I think there should be. It may not have been received yet, because airlines do not necessarily pay on time, but certainly, the landing charges were for our account as from the same date as the expenses.

HON J J BOSSANO:

Which are from 1st January.

HON CHIEF MINISTER:

Yes. Let me just see – airport fees and concessions; airport landing charges. There is a small provision there but nothing actually shown as having been received by March. It may be that the airlines pay three months in arrears. We are entitled to it but it will not yet have been paid for that January, February, March month period.

HON J J BOSSANO:

Is the estimated amount for this year of £2.2 million of revenue, is that related to the £2.7 million or the £2.7 million plus the £4.6 million?

HON CHIEF MINISTER:

No, they are not linked. The £2.2 million which is revenue, is a product of the amount of fees that are actually generated. It is the totality.

HON J J BOSSANO:

I accept that one is not driven by the other. What I am saying is, if we have got here 15 months of expenditure, have we got 15 months of revenue or 12 months of revenue?

HON CHIEF MINISTER:

No, I think we have got there.... It is 12 months of revenue. Just as we have not yet received the revenue for the first three months of 2007, so by March 2008 we will not have received the three months. It is a 12 month period, albeit for cash flow purposes it is three months in arrears.

HON J J BOSSANO:

Therefore, the £2.772 million would be 50 per cent of the cost of those identified items.

HON CHIEF MINISTER:

Yes. Therefore, as we speak, the net cost to us, commercial operations at the airport, on these Heads is about £500,000 if one excludes our taking from airport departure tax and all of that. It is still a profit centre, the airport is still a profit centre.

HON J J BOSSANO:

I accept that but the other was already there.

HON CHIEF MINISTER:

Yes. The others were already there, but the arguments of the United Kingdom, which were difficult to resist, were that it was all very well for them to subsidise our operating costs while we pocket the passenger tax and the fees and concessions from the terminal. We are now able to manipulate the figures of both revenue, we cannot manipulate the expenses figure except upwards, by asking them to keep the airport open for longer hours. Then we pay 100 per cent of the cost of that. But in terms of the revenue, of course, as we generate more traffic we

can either increase that revenue, or we can use the increased traffic to reduce landing charges, which are very high.....

HON J J BOSSANO:

To attract business.

HON CHIEF MINISTER:

Yes, exactly.

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

HEAD 6-F EMPLOYMENT

Subheads 1 to 4 – were agreed to and stood part of the Bill.

Subhead 5 – Contributions to Gibraltar Development Corporation

HON J J BOSSANO:

Can I just go back to Employment Subhead 5, which has got a £1,000 token for the Development Corporation employment services? It is a token, I can accept that, but I am using the token to refer back to the appendix. I notice that the training levy produced £2,565,000 in 2005/2006, it was budgeted at £2.5 million, came in at almost the same amount £2,560,000 in 2006/2007, is budgeted again at £2.5 million. Now given that we have been told, both last year, that there was 880 more employees in respect of which a training levy would have been paid, and then 1,100 more this year, there are 2,000 more people liable for the training levy but no more income. How does that square up?

HON CHIEF MINISTER:

I have part of the explanation for this year. I will have to think carefully about whether it is also the answer for last year. But part of the explanation for this year is that the changes to the system in social insurance contributions also reduces the take on the training levy, which is part of the social insurance.

HON J J BOSSANO:

Not from my recollection of the breakdown that we were given in the House. The percentage still produced £3 a week, as I recall it.

HON CHIEF MINISTER:

I do not have the working papers in front of me but I am just trying to recollect what we did there. The proportion of the training levy as a proportion of this whole contribution has not changed, but because it is the same proportion of a reduced total amount, the take is down because there are now several hundred people paying less social insurance contribution than they were paying before. Therefore, the same proportion of that applied to the training levy would be worth less money. What I cannot do is assure him that that accounts for the whole of the equality, despite the increased numbers of employment on the other hand. He said, well if there are more jobs in the economy this figure should be rising, because there are more people paying the training levy. Last year, as of April, there are a lot of people paying less. So that would mitigate adversely some of the gain from the extra number of people in employment. What I cannot say is, it seems very coincidental that the figures should be completely flat. I hesitate to say that that is just coincidental. There is one issue that should raise revenue, namely, more people in employment. Another factor, as far as last year was concerned, which would reduce revenue in the training levy. In either event, it would not appear to explain why

last year's forecast outturn and the previous year's actual, are flat. So that cannot be the explanation for the flatness between 2005/2006 and 2006/2007.

HON J J BOSSANO:

It might be part of the explanation for 2007/2008. Although, in fact, in 2007/2008 however many few people there are, or more, the figures that we are talking about will, of course, have two effects. There is the fact that there are people who because of their low wages produce a percentage which means that the amount is less than £3; but of course, there are people who are paying who did not pay at all before.

HON CHIEF MINISTER:

Correct, and this estimate, suggests that one has exactly balanced out the other.

HON J J BOSSANO:

I am saying independent of the additional workers, even within the existing work force, there were people on 14 and a half hours who did not pay. A lot of employers had people on 14 hours and 45 minutes, as the Chief Minister may know, and they will pay the reduced contribution and before they were paying nothing.

HON CHIEF MINISTER:

Perhaps I can come back to the Leader of the Opposition, because I am actually myself interested in why the statistics do not reflect the employment. I will write to him on that.

HON J J BOSSANO:

Now that I am on this subject, the last time I raised why there had been under spending in terms of training projects and the Chief Minister told me in his reply, in last year's Budget, that it was not under spending, it was that they had held back money from Cammell Laird, because the paperwork was not properly documented. Therefore, the money would be paid when they produced a properly documented paper. That was the explanation he gave me a year ago. Now, that if anything, would have meant that presumably there would have been a higher figure than normal this year, because it would have been the normal expenditure plus, as it were, bills arriving late but with the correct documentation. It does not seem to be the case when I look at what the House effectively appropriated, not by virtue of the subvention because this requires only a token amount of £1,000 and it did not need it. It did not need it because it did not spend the money that it was. So what we have is that, in fact, the money that is raised from the levy is not all being spent, and this is one of the things that I questioned a year ago. The explanation that I was given a year ago I was looking to see it reflected in this year's figures and I do not see it.

HON CHIEF MINISTER:

Well, the money raised on the levy is £2.5 million and the total expenditure on training related things was £2.7 million.

HON J J BOSSANO:

Yes, but that includes the fact that there is £200,000 shown there, and as we have already debated on many other occasions, that is because although we had £1 million for ESF funded they spent the money first and recovered it later. But last year from the local funds there was money that was unspent and when I asked about that I was told that it was because the paperwork.....

HON CHIEF MINISTER:

Sorry, under which particular.....

HON J J BOSSANO:

I was told it was EU money, in fact. It was training.

HON CHIEF MINISTER:

Does he remember which of the subheads down below, in the bottom half of the page?

HON J J BOSSANO:

I think I was questioning the fact that the total, which came to £400,000 last year, I do not have the original estimate here but the original estimate last year was, I think, of the order of £1 million – the same as it was in 2006/2007 – and the final outcome was £416,000. I did not ask about whether it was under project B or A or training and development courses. I questioned why the total amount was less than half of what had originally been provided. The explanation I was given by the Chief Minister was that I was not interpreting it correctly and that it was not less money being spent on training. The Training had taken place, it is just that the paperwork did not comply with the requirements and, therefore, it was money that was due to Cammell Laird but had not been paid and that when they completed the paperwork properly, it would be paid. So, obviously, given that there was an amount of £1,078,000 provided as a whole for this type of training, and £690,000 has been spent, I am asking whether in the £690,000 there is the late payment of Cammell Laird. In which case, even less has been spent in training provided in the last financial year, then. Or maybe the dispute was not settled.

HON CHIEF MINISTER:

I am just trying to find that out. I do not think that issue has been settled and the money has been paid. I cannot think of another explanation why we would have been carrying forward in the estimates, for a couple of years now, a figure in the order of £1 million when the expenditure has been in the order of £400,000 to £600,000. Except that this year we appear to have not made a provision for it in the estimates. We have not got the estimates here for 2005/2006 but, probably, the figure was much higher than £416,000.

HON J J BOSSANO:

It was indeed that was why I questioned it.

HON CHIEF MINISTER:

So it was £1 million, we spent £416,000 then last year we estimated £1,078,000 and only spent £690,000. So it must be the same explanation. Because it was only £690,000 we cannot have paid for it and now we are estimating something which appears to be excluding it all together. There is a large negotiation going on with Cammell Laird in relation to sums that they owe the money, sums that Government feel that they are due to pay, nothing to do with this. So there is a wider sort of broad brush negotiation going on. It may be that provision has not been made for the sort of undocumented training monies, because the intention is to net them off in this wider transaction. I cannot think of another explanation of why this year's estimate is only £770,000, because if it were only £770,000 without still having paid off Cammell Laird, and that was worth around £500,000, then the implication would be that we are only estimating to spend around £200,000 odd on actual training this year, which is not the intention. So this year's estimate, unlike last year's estimate, clearly strips out provision for that amount.

Even though it has not yet been paid because last year's forecast outturn shows that it has not been paid.

HON J J BOSSANO:

I would be grateful if the Chief Minister would find out what it is, because at the moment I think what we are getting is probable or likely explanations but not 100 per cent confident that it is the accurate one. Given that I was satisfied with the explanation that I was given last year, we have not paid for training but the training has taken place, it is a question of the paper work not being right, then I would like to know whether since then the money has been paid and the paper work has been produced. If not I cannot imagine Cammell Laird being willing to carry on indefinitely training people and sending bills that do not get paid, not from what I know of them.

HON CHIEF MINISTER:

I will include the answer to this in the letter that I write to him. Let us be clear, the disputed amount is a one-off ruled under. The subsequent payments relate to their on-going expenses. It is not that they are incurring on-going expenses.

HON J J BOSSANO:

For example, if we have a situation where in 2005/2006 Cammell Laird have people in the training centre and then at the end of the year, having paid them throughout the year, they submit a bill to the Government and the Government send the bill back because the paper work is incorrect, and in 2007/2008 there has been a subsequent year, it is difficult to understand why they got the paper work right for 2006/2007 but they did not get the paper work right for the preceding year and have not got it right since and have not been paid.

HON CHIEF MINISTER:

But they have been paid since, because when they were told that the paper work was wrong, they started doing it right from then on. It is just that they could not comply with that same standard in respect of periods that had then already passed. So it is a disputed amount in respect of a ring fenced period of time.

Subhead 5 – was agreed to and stood part of the Bill.

HEAD 6-G TRANSPORT – TRAFFIC

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

Subhead 4 – Operational Expenses

HON F R PICARDO:

The Transport Commission expenses are anticipated to be about £500, that is fairly standard, they have gone up this year to about £1,000. What type of expense does the Transport Commission have? I understand that they meet in the Minister's office and are voluntary or not paid.

HON CHIEF MINISTER:

Yes, these are expenditure relating to public hearings so it must be things to do with hiring of recording equipment, transcription equipment, because it is related to the hearings. It is so much per hearing. What I have not got is a list of the.....

HON F R PICARDO:

In terms of operational expenses, Professional Fees, what are those professional fees anticipated to be in the region of £5,000 for this year?

HON J J HOLLIDAY:

It is part of the Blue Badge Scheme, some of the certification for the over 70s driving licence, the medical fees involved in actually paying them for forming part of the adjudicating panel.

HON F R PICARDO:

Are those internal payments, if I can call them that, to the GHA or for private medical assessments?

HON J J HOLLIDAY:

This is a private practitioner.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – was agreed to and stood part of the Bill.

Subhead 6 – Traffic Management

HON F R PICARDO:

In terms of traffic management there is an increase in the Radio Communication Systems amount payable to Gibtelecom of £14,000 from the forecast outturn and the estimate of last year. What exactly does that entail?

HON J J HOLLIDAY:

Item 6(c) is, basically, to pay for the rental of the new Tetra equipment in respect of the upgraded system that is being used now.

HON F R PICARDO:

Is that the cost of upgrading the whole system?

HON J J HOLLIDAY:

No, that is the cost of the rental.

HON CHIEF MINISTER:

It is an extra 15 phones for new staff.

HON F R PICARDO:

An extra 15 phones, that is £1,000 a phone.

HON CHIEF MINISTER:

It is 15 phones, £1,000 per phone, connectivity at £46.50 per unit per month, for new staff. Somebody is going to be issued with radios that did not use them last year. But I do not know who they are.

HON F R PICARDO:

Are these the traffic wardens' radios?

HON J J HOLLIDAY:

Those are traffic warden radios and this is in respect of an upgraded system.

HON CHIEF MINISTER:

The Government's obligation to explain the new radios, does not include giving Opposition Members the names of who the employees are that are getting them.

HON F R PICARDO:

Where there is a difference of opinion between new radios for new staff and upgrading the existing radios, it may be that it is just both of them.

HON CHIEF MINISTER:

Well, that is the information that we have, new radios for additional staff.

HON F R PICARDO:

I am sorry, that is not the information that we have. The information that we have is new radios for additional staff, £1,000 per radio and £46 for connectivity, or upgrades of existing radios. I think it is fair for the Parliament to ask to know which of those two it is, or whether it is both. It may just be both.

HON CHIEF MINISTER:

The departmental bid says Tetra system rental of communications set for new staff. Remarks 15 phones at £1,000 equals £15,000. Connectivity at £46.50 per unit per month, in accordance with Government policy. That is what the departmental bid says and that is what the hon Member should assume the position to be. If he has heard any other whispered across the floor of the House, from conversations between us,

that is not what the departmental bid is. I have just read to him the whole of the departmental bid.

HON F R PICARDO:

I appreciate that and I was not making any comment about anything that might have been whispered, which I would have respected. I was making comment about what was said into the record by the Minister with responsibility for that department.

HON CHIEF MINISTER:

What the Minister says is also true. Tetra. It is being upgraded to a more expensive version of Tetra. They are not mutually exclusive.

Subhead 6 – was agreed to and stood part of the Bill.

Subhead 7 – was agreed to and stood part of the Bill.

HEAD 6-H POSTAL SERVICES

Subheads 1 to 4 – were agreed to and stood part of the Bill.

Subhead 5 – Outgoing Mail and bulk Mailing

HON J J BOSSANO:

In subhead 5, the expenditure on Outgoing Mail and Bulk Mailing, was down from the estimate last year and the new provision is in line with the outturn. Does this mean less of this work is being undertaken?

HON CHIEF MINISTER:

Well, obviously, it can only be a drop in volume or a drop in rate per volume.

HON J J BOSSANO:

Well, it suggests there was drop in volume last year from the preceding year and, in fact, it was bigger than anticipated...

HON CHIEF MINISTER:

Yes, the note that I have on this item from the department is this. These costs are determined by international agreements with the UPU (the Postal Union). We fall under the United Kingdom, we have no control over this expense as the international agreements determine what we have to pay for outgoing mail. However, since we pay in arrears, the estimate is relatively accurate.

HON J J BOSSANO:

That does not sound right to me.

HON CHIEF MINISTER:

It certainly does not sound true of the year 2006/2007. It was anything but relatively accurate. It was estimated at £450,000 and it came out at £300,000.

HON J J BOSSANO:

This is money paid to other postal administrations, am I right?

HON CHIEF MINISTER:

Yes, I think the difficulty here is breaking it up. That is outgoing mail and bulk mailing. The bulk mailing is a matter of how much business we do in a year, how many people want to do bulk mailing through Gibraltar. This is an entirely commercial, contractual arrangement.

HON J J BOSSANO:

I accept that. What I am asking is, is it that the bulk mailing bit is going down? I cannot imagine that the rate that we pay for normal post.....

HON CHIEF MINISTER:

It can only mean that. I said, whilst I was looking for the information, that it could only be changing rates or falling volumes in bulk mail, I think it has to be change in volume. I think this must mean that we are doing less bulk mailing than we had been estimating.

HON J J BOSSANO:

Or that we were successful in doing in 2005/2006.

HON CHIEF MINISTER:

Or that we were successful in doing in 2005/2006, then there was an estimate in 2006/2007 of £450,000, which failed spectacularly to materialise.

HON J J BOSSANO:

And which is not being repeated.

HON CHIEF MINISTER:

Exactly.

HON J J BOSSANO:

Right, so can we know whether it is in fact that we are doing less bulk mailing?

HON CHIEF MINISTER:

Yes but not from me. I am afraid I just do not follow the volume.

HON J J HOLLIDAY:

My understanding is that the actual sums involved actually fluctuate and are not really correlated to the actual bulk mailing on any particular year. There is an element of arrears in being able to actually get funds paid back by the international circuits.

HON J J BOSSANO:

That is expenditure not revenue.

HON J J HOLLIDAY:

Well yes, expenditure but we will have to.....

HON J J BOSSANO:

I am asking why are we paying less and not why are we receiving less.

HON CHIEF MINISTER:

We can only be paid less because we are paying less money to other administrations.

HON J J BOSSANO:

Because we are sending out less stuff.

HON CHIEF MINISTER:

Absolutely, there is no other explanation for this. Now, the only issue here is whether the reduction relates to outgoing mail or to bulk mailing, or indeed to both. It is not impossible that with the advent of e-mails and electronic mails, fewer people are posting mail in a way that creates an obligation to pay. It is obviously that, it is not capable of being anything else. The only thing that I am not able to tell the Leader of the Opposition, is whether the axe has fallen on outgoing mail or bulk mailing, or both in some measure. In other words, what I cannot do is break down between those two joint labels, the explanation for the reduction from £450,000 estimated, well the reduction from £505,000 really, £504,000 in 2005/2006, to an actual £300,000 in 2006/2007 which is a reduction of £200,000 from £500,000 to £300,000. That is the real fall, the rest is the debate that we had in the second stage about the relevance of difference between estimate and outturn. In terms of performance, we have done £200,000, we have done only three fifths of the volume of expenses that we incurred in 2005/2006. That can only be due to reduced volumes. It is not impossible that the figure 2005/2006 was not representative of one year's volume because it might have had arrears of payments. But still, the

evidence here is a decline. In fact, what I am just suggesting may well be the explanation, because the Leader of the Opposition does not have it in front of him, but the actual in 2004/2005, which is now off the radar screen of this book, was £277,000. We then estimated £315,000 for 2005/2006 and that came in at £510,000 forecast outturn, which has then been trimmed down to £504,000 actual when it was firmed up. So the indications are that this was £277,000 in 2004/2005, for some reason in 2005/2006 it went up to £504,000, then the estimate in 2006/2007 seems to have been pegged to the 2005/2006 figure, whereas in fact, it actually came in at something much closer to what it had been in actual fact in 2004/2005. Now it is being estimated on that basis. So, it does not seem to be so much a question of anything falling in terms of trend, but rather why it shot up to £504,000 in one year, from which we are now falling. It was 2004/2005 was £277,000, 2005/2006 was £504,000 and 2006/2007 was £300,000. So it is a very single peak surrounded in both years by much lower amounts. The two lower amounts are more or less of the same magnitude. I do not know whether in 2005/2006 there was a particularly large bulk mailing contract, which presumably is reflected in a jump on the revenue side.

HON J J BOSSANO:

It is reflected in a jump on the revenue side. The revenue was £662,000 in 2005/2006 and £400,000 this year.

HON CHIEF MINISTER:

So it suggests that there was a large bulk mailing business which is no longer being done, which we appear to have lost.

HON J J BOSSANO:

Can we know?

HON CHIEF MINISTER:

Yes indeed.

Subhead 5 – was agreed to and stood part of the Bill.

Subheads 6 and 7 – were agreed to and stood part of the Bill.

HEAD 7 HEALTH

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

Subhead 3 – Contribution to Gibraltar Health Authority

HON F R PICARDO:

The exceptional item there this year is £500,000, which the green pages tell us will relate to contingencies for getting rid of waiting lists, initiatives getting rid of waiting lists. Is there any detail of what the breakdown of those initiatives will be?

HON LT-COL E M BRITTO:

No, the only breakdown I can offer at the moment is that it is mainly on plastic surgery, where since the disappearance of private practice in Gibraltar, there is an increasing waiting list for people who want or need plastic surgery, because the visiting consultant is not here for a long time. So we are aiming to carry out an initiative in that area, similar to those carried out on knees and hips recently, to cut down the waiting list of the order, if I remember rightly, of 200 or 250 patients.

HON F R PICARDO:

This amount is exclusively for that purpose or is that the only one that is being earmarked?

HON LT-COL E M BRITTO:

It is the only one that is being earmarked at this stage, but that does not mean that we might not change if the need arises. But at the moment that is the one that is being budgeted.

HON F R PICARDO:

This is a provision for just that one or a provision generally?

HON LT-COL E M BRITTO:

It is the only one that has been identified at this moment in time.

HON F R PICARDO:

Is there an indication of how much that particular initiative on plastic surgery, for 200 or 250 patients is going to cost?

HON LT-COL E M BRITTO:

It depends how many cases are done and how many other initiatives may be brought into play. At the moment it is based mainly on plastic surgery.

HON F R PICARDO:

I am just asking about the plastic surgery initiative, forget that there might be others. If only the plastic surgery initiative is the one done, how much is it going to cost?

HON LT-COL E M BRITTO:

It is about that figure, if the whole list is done.

HON F R PICARDO:

Still on the green pages to do with health, I hesitate to point out to the Minister that there is a provision here for £4.5 million booked as rental, although we both know that it is not just rental for the building. In terms of insurance claims, which is on page 118, forecast actual is £991,000, estimate for next year is about £1 million, can the Minister tell us what amount of that is the premium on the insurance, and therefore from there we can work out what the estimate claims might be?

HON LT-COL E M BRITTO:

Yes, that is exactly that, that is the premia that is lower than was expected or anticipated and budgeted for.

HON F R PICARDO:

Just the premium?

HON LT-COL E M BRITTO:

All premia, yes. That is the information I have, that it is all premia. That is the reason for the drop.

HON CHIEF MINISTER:

I understand the hon Member to be asking how much of this is premiums and how much of this is claims. It cannot all be premiums, to the extent that there have been any claims during

the last year, there will be an excess payable on each claim which is paid out of this. So I do not think it can be right that the whole £1 million or the whole £991,000 last year was premium. Unless there were no claims paid in that particular period. In round figures, £921,000 or thereabouts appears to be premium and about £78,000 appears to relate to claims. The estimate this year is making a provision for claims of around £100,000.

HON F R PICARDO:

Is that the estimate made every year?

HON CHIEF MINISTER:

Well this is not an estimate, this is a sort of a provision made by the bidders, by the departmental bidders, they bid for something and that is what they have bid for. Whether this is the amount that they provide for every year in their bid, I do not know. I do not have this document for last year.

HON F R PICARDO:

Are there more claims on foot? Perhaps the Chief Minister would know.

HON LT-COL E M BRITTO:

There are always claims but I do not have the details here with me. That is the figure of what has been paid out of that £991,000 forecast outturn. Remember these are departmental bids which date back to probably round January or February, so they are not the same as what is in the book. That is why we have said in round figures, but if the hon Member's question is why the drop from £1 million to £991,000 as he indicated, it is mainly due to the drop in premia. Out of the £991,000, it would

appear that the proportion is roughly £80,000 claims against £900,000 premia.

HON F R PICARDO:

So it is anticipated that that the premium for this year will be £900,000?

HON LT-COL E M BRITTO:

I am anticipating nothing of the kind. I am anticipating insurance and claims to be £1 million. What the breakdown between the two of them is.....

HON CHIEF MINISTER:

The premiums this year are £954,000.

HON F R PICARDO:

So it is up not down.

HON CHIEF MINISTER:

Yes.

HON F R PICARDO:

So should the estimate not be the same as for last year?

HON CHIEF MINISTER:

£955,000 is the premium for this year. So it is the £955,000 plus £100,000 provision for claims, which is £1,050,000.

HON F R PICARDO:

But we are actually estimating £1 million this year instead of £1,050,00.

HON CHIEF MINISTER:

Well, so they have asked for £100,000 provision for claims and they have been allowed £50,000. In the end it is whatever it is.

HON F R PICARDO:

Does the next Head, which is the sponsored patients head, incorporate the provision for what we discussed yesterday? We were told the book did not take into account any detail of the dialysis and the diabetics.

HON LT-COL E M BRITTO:

The hon Member mentioned dialysis, what is the question on dialysis?

HON F R PICARDO:

On dialysis it is simply to ask whether it included provision for the diabetic clinic. It does not include provision for the diabetic clinic.

HON LT-COL E M BRITTO:

Diabetic clinic and dialysis are nothing to do with each other.

HON F R PICARDO:

I understand, but as it is not here.

HON CHIEF MINISTER:

New diabetic clinic is not here, together with all the new measures we announced in the Budget.

HON F R PICARDO:

Does the St John Ambulance Service provision, is that going to stay the same even after the arrangements that have been made, the new ambulance arrangements that have been made?

HON CHIEF MINISTER:

That figure still reflects the cost of last year's contract with St John's. There will be slightly more costs because there is a payroll uplift, once they have become GHA employees. The negotiations were completed after this document was prepared.

HON J J BOSSANO:

The recurrent contribution from the Consolidated Fund is less than last year. That, I think, is reflected in page 117, because the forecast outturn and the estimate for this year from the GPMS is higher. Compared to last year's estimate it is almost £2 million higher. What I do not understand is how, since this is the same percentage share of the social insurance stamp as the

training levy, that produces the £3, in one case we are just being told that because there are people that are going to be paying less, the training levy could be lower. Yet, even though those same people who are paying less in insurance stamps, are paying for this, in this case they are expected to be paying more. That seems incomprehensible.

HON CHIEF MINISTER:

I cannot at this moment in time offer the Leader of the Opposition an explanation for the reason why one bit of the contribution is shown as flat and the other one is shown as rising. I shall include it in the letter that I shall write to him.

HON J J BOSSANO:

Presumably, one of the two has to be wrong. Either the other one is under-stated or this one is over-stated. The percentages provided by the Government were very clear.....

HON CHIEF MINISTER:

There is one difference that might throw off the exact straight line approach that the Leader of the Opposition's logic is taking. That is, that to the Group Practice Medical Scheme, both the employee and the employer contribute but in the levy only the employer contributes. Now, that may have an impact.

HON J J BOSSANO:

The Chief Minister is wrong. Until it was changed this year only the employer contributed, but in the change introduced, the percentages applied to the employee were the same as those to the employer.

HON CHIEF MINISTER:

I have just been told that the apportionment between the various funds is based on the total rather than the contributors contribution. Rather than continue.....

HON J J BOSSANO:

The information that I am using is the information that the House has been provided with. When we discussed the legislation, we asked for the percentages and the percentages of each one was actually spelt out. Those percentages were not simply of the total. They had so much per cent for the training levy, so much per cent for Health Authority and so on. So, on that basis, the Chief Minister may remember that he actually told us that the percentages actually produced the same amounts in cash as had been originally been provided. So it did not really make any difference, except that one percentage might not be 100 per cent accurate and be a few pennies out. But it was still supposed to produce £3 training levy as a percentage of a total, and whatever it was that the Health Authority was getting before, was what the new percentage share out produced. All the bids actually worked out with those results. On that basis, what was happening in 2005/2006 should be reflected in what is happening in 2006/2007, and 2007/2008 based on the numbers paying.

HON CHIEF MINISTER:

What I must yet find for the hon Member is an explanation of why the same group of people are estimated to produce more Group Practice Medical Scheme revenue, but flat training levy revenue. It is part of the last issue and it will be included as well in this letter.

HON J J BOSSANO:

Still on the health service, last year when I asked about the rental I think the Minister told me that it was £60,000 something, and that it was a percentage that went up every year of the existing rent, on page 118, the rental for the new hospital. It went from £4,289,836 to £4,350,000 and I asked. I was told it was £60,000 odd and that that was what the percentage of the rent came to. This year it has gone up by £150,000 as opposed to having gone up last year by £61,000.

HON CHIEF MINISTER:

I see.

HON J J BOSSANO:

The increase last year, when I asked about it, I was told was the percentage of the rent and that that was what would be happening this year again. The same percentage of the new rent. Well, it is not the same percentage of the new rent, that is what I am saying. So the explanation that I was given this year, which I remember, does not explain the £150,000 increase.

HON CHIEF MINISTER:

We do not have the PFI rental contract here, but it appears that it provides for a percentage which is not necessarily straight lined. It is not necessarily the same, there is a table, there is a schedule, and it does not necessarily provide for the same amount of increase every year. What I cannot do is tell him what is the provision for this year and what is the provision for last year. It is reflected there in that difference in figure, but I would like to have explained it to him by reference to the contract to justify why it is £150,000 extra this year, whilst it was only £61,000 in the previous year.

HON J J BOSSANO:

Last year what the Minister told me was that the amount might change, because it was a percentage of the preceding year's rent. So, obviously, each year even if it is the same percentage it is a bigger amount because one is calculating it on a bigger base. But only if it is only the same percentage, obviously. It does not seem to be possible that the same percentage would produce £150,000.

HON CHIEF MINISTER:

I will look into this.

HON J J BOSSANO:

On the budget as a whole for the Authority, I note that in fact, forgetting the new items which have been announced, which we know will not be there because this has been prepared before, what surprises me is that, in fact, if we take the provision that is estimated to be the recurrent expenditure for this year, without anything new.....

HON CHIEF MINISTER:

Is he looking before capital or after?

HON J J BOSSANO:

This is recurrent expenditure. The bottom of page 118 which is summarised on page 119. If we look at those figures, the bottom line, total recurrent expenditure, we see that in the estimate at this time last year we were providing something of the order of £1,750,000. From £50.7 million to £52.3 million. Now this year, on the forecast outturn, we are not increasing the

same amount over the actual of last year, which is what the forecast outturn of the previous year would have been. That is to say, the £52.3 million of last year represented an increase over the forecast outturn, not over the original estimate. So the amount that the Authority thought that it would need on existing services for 2006/2007, was £1.7 million more than had actually been spent, not what was actually budgeted. If we look at the forecast outturn this year and the provision that is being made, and we take out the rent which is £150,000, and we look at something like, for example, the maintenance contract which has got another £90,000 extra this year, then it is almost an unchanged budget and that does not seem to be a very probable outcome. Given that if nothing else, if people have got pay reviews and stuff like that in the pipeline, then I do not see how this can be a realistic budget without anything new being included, and not consistent with what was done the preceding year.

HON CHIEF MINISTER:

Yes, for the explanation for that we would have to go through the two pages. It is not just the question of looking at the bottom line. So, for example, increasing expenditure on staff by employing more consultants, for example, reduces the amount that they think they are going to spend on such things as relief cover. So, if one goes down the lists of items, for example, under other personnel, this is just an example, whereas £1.6 million was spent last year on relief cover, £400,000 is saved there because having employed more consultants and there now being less single handed consultants and more double handed consultants, there is less need to employ locum cover for consultants when they go on leave. So that is £400,000 saved from there, for example, which in an unchanged estimate over forecast outturn means it is £400,000 that has been spent on other things.

HON J J BOSSANO:

But surely, if we take the example the Chief Minister has given, if in 2006/2007 there was £1.6 million for relief cover and £16.4 million for salaries, what he is telling me is that there is more people employed and less cover, then of course, there is a £400,000 saving in that line, and £400,000 increase presumably at the top where it goes from £16.4 million to £17 million.

HON CHIEF MINISTER:

Not necessarily. More or less £400,000. The head count, do not look at the pay roll because the pay roll also includes the increased pay of everybody else. But there are more doctors there, and the result of having more consultants is that one has to use less locum cover.

HON J J BOSSANO:

In fact, the note at the bottom says the number of non-industrial employees on 1st April is 604 this year and was 673 a year ago. I do not know how that has been arrived at, but that says there are 69 non-industrials less.

HON CHIEF MINISTER:

I am just being told that the 604 is a typographical error, it should be 684. Sorry for that. Now the other items, in terms of service delivery, most other items are reasonably static if one goes down the lists. For example, on sponsored patients, round about the middle of page 118, this will be wiped out because of the budget measures that we have announced. But as it stood then, there is a saving of £600,000 over the estimate of sponsored patients. That is because having incurred other expenditure, for example, more on visiting consultants and more things were done locally.

HON J J BOSSANO:

I am not looking at the column where the £600,000 is. I am looking at the figure where the £2 million is because I am talking about £55.25 million and that figure is not included in the £55.25 million. If I had said on the principles of the Bill, the Government have been terrible in that they are only providing £150,000 increase in this year's recurrent budget for the Health Service, I would have enjoyed an even greater onslaught from the Chief Minister in his right of reply. As I have waited patiently so that I can mildly point it out to him at the Committee Stage.

HON CHIEF MINISTER:

The two items which produce a margin for increase of expenditure, notwithstanding the fact that the estimated figure is very similar to the forecast outturn figure, are the one that we have already spoken about, other personnel, and also a bit further down on GPMS prescriptions, where the estimate is now a saving of £400,000. So although the figures are flat at the bottom line, there is £600,000 or £700,000 in effect provision of higher expenditure elsewhere.

HON J J BOSSANO:

What the Chief Minister is saying is that because the budget estimate is £7.5 million, which is the same as last year's budget and not the same as the forecast outturn on the medicines, it must mean that since the total is more or less the same, it must have increased £400,000 somewhere else. Well, look.....

HON CHIEF MINISTER:

No, I am not saying that. Well, yes, it is, I am not saying that but it follows.

HON J J BOSSANO:

Salaries are £550,000 more.

HON CHIEF MINISTER:

If the Leader of the Opposition wants we could go down each item here to see which is up and which is down. He can see at a glance.

HON J J BOSSANO:

There is very little up.

HON CHIEF MINISTER:

Fine, so the Leader of the Opposition is saying that he doubts the figure will come in at the end of this year at £55.567 million.

HON J J BOSSANO:

No, I am saying more than that. In fact, what I am saying is, the actual increase in last year's budget was assumed to be limited to be £1.75 million and finished up being £5 million. It went from £50 million to £55 million instead of going from £50 million to £52 million.

HON CHIEF MINISTER:

That is because of the pay review.

HON J J BOSSANO:

The pay review was not in the £52 million it was in the £55 million. But this year instead of going from the equivalent of £50.7 million to £52.3 million, we have only gone up by £100,000. That is not very normal in the Health Service budget as a starting point.

HON CHIEF MINISTER:

It is normal in a health service budget where they are being told that new money is now provided for new additional services, and not just for growing the cost of doing the same as has been done in previous years. Now, that does not alter the fact that there are certain costs that are out of their control in the budget and which, he is entirely right, they may not be able to control. But there is little point in continuing to throw large sums of money at standing still, in effect. At spending more and more money doing just the same amount of service. This is the first year in which I say, in my own address in the Budget, that there is so much more extra money for the GHA in order for them to do (a), (b), (c) and (d). There is a huge amount, over the years there, of additional labour which has enabled them to do a huge amount of additional services, and more do more in Gibraltar and therefore send less people away et cetera. But what they are being asked to do as a budgetary control exercise, it is an aspiration, as the Leader of the Opposition rightly says, it never works like that in practice, is to not allow. Rather, put another way, that as much as possible of any budgetary growth in expenditure should reflect additional value, additional services to the consumer rather than just simply paying 6 per cent more for doing the same as one was doing before. Now, the extent to which they are able to achieve that objective is a reflection of the extent to which they are able to control costs which are in their control. Without, obviously, any degradation of service. If it is indicated to them at the beginning of the year that we are happy for them to spend another £6 million, they will spend it. If it is said to them at the beginning of the year that that is the rule,

now if it is unavoidable of course they must spend it, they are operating on a wholly different climate. It is the budgetary discipline that Opposition Members disapprove so much of.

HON J J BOSSANO:

No, I have not said one word of approval or disapproval of anything because I do not vote for him. All I am trying to find out is to pin him down to what it is that it does. If it is budgetary discipline, then when I look at these things, I look on the basis of the explanation that he gives me. If he gives me a different explanation then I look at it in a different light. That is why I seek information and explanations, nothing else. The last time I think we raised the question of Mr Brooks, the gynaecologist that was in the process of severing his services, we were told that because the matter was under negotiation we could not be told what the cost of that termination would come to. I take it that now it has happened, it must be reflected in these figures somewhere. Can the Minister identify it for me?

HON LT-COL E M BRITTO:

Not without notice of the question. The termination was on a friendly basis so it would have been under the terms of his contract, whatever the contract said in terms of termination. So the cost of the termination will appear under personal emoluments.

HON J J BOSSANO:

Would it be under the gratuities head?

HON CHIEF MINISTER:

It could be.

HON J J BOSSANO:

Normally, what people get when they finish a fixed contract is paid out of there.

HON LT-COL E M BRITTO:

Let us put it this way, part of it could be under the gratuity.

HON J J BOSSANO:

Well, would it be possible for the Minister to provide more information without my having to wait and see if there is another Question Time before an election for me to be able to put a question?

HON LT-COL E M BRITTO:

I always answer yes, but the Leader of the Opposition knows that I then give him the caveat and ask him to write to me and ask me exactly what it is that he wants to know. Then I will answer him and it avoids any possible confusion.

HON F R PICARDO:

In terms of the final debate with the Leader of the Opposition, is there a figure that we can be told of the cost, even though it is not in the book, of the diabetic clinic and the mammograms et cetera, so that we know more or less what the interest will be?

HON LT-COL E M BRITTO:

It is difficult to answer that question accurately for a number of reasons. The Government have allocated £1.25 million extra

expenditure to GHA to provide new services and improvements to existing services. The GHA had provided to the Government a three year plan, which included these services that are going to be provided and have been announced, and others. Now, the GHA has prioritised its three year plan to meet the £1.25 million budget authorised by the Government. That does not mean that at this moment in time the £1.25 million will cover the full estimated cost for these services that GHA have. GHA will need to tailor make its new provision of service to that £1.25 million. So although I do have with me the original estimates of those services would have been, they will not necessarily be how it works out in actual practice. So until the services are prioritised so the expenditure on each service is tailor-made to the funding available, I cannot give a breakdown in between services. If I tried doing it now it would be too much back of the envelope stuff and I would hate to be accused later of misleading purposely, or otherwise of misleading the House.

HON J J BOSSANO:

Is the Minister saying that it is £1.25 million for the three years or £1.25 million per year?

HON CHIEF MINISTER:

Per year. They get an extra £1.25 million next year. Another extra £1.25 million over and above this £1.25 million, next year.

HON F R PICARDO:

Is that for the new services and improvements that the Minister said?

HON CHIEF MINISTER:

Well, improvements means expansion of.

HON F R PICARDO:

Right, because I thought that existing services had to be provided within....

HON CHIEF MINISTER:

Yes, it is improvement in the sense of expansion of existing services.

HON LT-COL E M BRITTO:

New services within existing services, where we have two radiologists we are now going to have three. That I call improvements but it is a new service under the guise of an improvement.

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

HEAD 8 ADMINISTRATION

HEAD 8-A NO. 6 CONVENT PLACE

Subhead 1 – Personal Emoluments

HON F R PICARDO:

In terms of the Legislation Support Unit, the estimate for this year was £470,000, the actual was £418,000 for salaries, the estimate for next year is £350,000. I see from the page 62 list of officers that it is exactly the same complement of officers. Is that because of the seniority of officers changing there, perhaps more junior ones?

HON CHIEF MINISTER:

The actual explanation is vacancies, that three or four of these posts are vacant. Therefore, finance is not provided if we do not think that a salary is going to be paid. I am just having checked, if the hon Member looks at page 45, he will see that one of the draftsmen from the LSU has been transferred to the DTI in the Minister's office. I am just having checked whether in fact for this year the LSU complement should therefore come down to 12, or whether the intention is to maintain the complement at 13. I do not know. In other words, I do not know whether 13 is a mistake, whether there should be one less draftsman. I think because the Government have not yet made a policy decision, Mr Rodney, who was the Senior Law Draftsman in the LSU, is now located under the DTI. As the Government have not yet taken a policy decision about whether he will be replaced in LSU or whether it will just be a deployment of resources elsewhere, so that the LSU comes down to 12 from 13, they have continued to make provision for it in the LSU. The reason for the reduced expenditure, which was the hon Member's original question, is that they are carrying four vacancies. That is to say, the Senior Law Draftsman, Mr Rodney, over which there is a question mark, two law draftsmen and a lawyer with responsibility for statutory consolidation. In other words, Mr Yale, left and there are two other vacancies in law draftsman. So they have not made a financial provision for a full year for a full complement.

HON F R PICARDO:

But it is anticipated that those, short of the Senior Law Draftsman where a policy decision has not yet been made, will be filled.

HON CHIEF MINISTER:

Yes it is, but even when they are filled, it will not incur in a year's worth of salary costs.

HON F R PICARDO:

I understand that. They are going to be filled at some stage during the year.

HON CHIEF MINISTER:

Yes, the Government are short of draftsmen and do not have draftsmen to spare.

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

Subheads 2 to 6 – were agreed to and stood part of the Bill.

Subhead 7 – Legislation Support Unit

HON F R PICARDO:

Under subhead 7, also dealing with legislation support, we have been making provision for consolidation of laws for some years. It was not clear last year whether the consolidation programme would commence. It has not, at least there has been no expenditure booked against it. Is it going to commence now?

HON CHIEF MINISTER:

I think the consolidation exercise, not Head 7.....

HON F R PICARDO:

Sorry, Head 8A, subhead 7(h).

HON CHIEF MINISTER:

Yes, the consolidation of the laws is an on-going exercise. There are people on the payroll. This is for non payroll, other expenditure but there are people consolidating the laws all the time. Employees in the LSU whose job is to do just that. So the fact that the expenditure of that £5,000 is zero, does not mean that the consolidation of laws exercise has not got off the ground. It means that they have not had to have recourse to any external expenses.

HON F R PICARDO:

Those of us who use the Government website know that most of the laws posted on the website are consolidated with all the amendments that they have suffered. But last year when we were on this Head, the Chief Minister told us about a programme which was going to commence, had not commenced and would commence. A programme of consolidation is what we were referred to last year. A full programme of consolidation of the printed laws.

HON CHIEF MINISTER:

Is the hon Member referring to the common law Law Reports?

HON F R PICARDO:

No.

HON CHIEF MINISTER:

Because the programme of consolidation is not a question of a programme starting. I cannot imagine why I would have said that.

HON F R PICARDO:

I was left with that impression.

HON CHIEF MINISTER:

It is a process which has been on-going now for several years and which is more or less complete, subject to being kept up to date. It is a maintenance issue now.

HON F R PICARDO:

Perhaps it was the issuing of a new set of laws. That is what I thought we were being told when we were on consolidation last time.

HON CHIEF MINISTER:

That is possibly true. There was a proposal, and I do not know where it lies in terms of proximity to issue, for the printing of a new set of laws with loose leafed pages, so that when there was an amendment, rather like the Butterworths tax cases, where one can pull out a page and replace it with the page one would be sent as a subscriber. There is such a proposal which is being run but I do not know whether it is any closer to fruition, or indeed whether it is being actively worked on or not.

Subhead 7 – was agreed to and stood part of the Bill.

Subhead 8 – was agreed to and stood part of the Bill.

Subhead 9 – Information Technology and Logistics Unit

HON F R PICARDO:

On subhead 9(c), the cost of the telecommunications services appears to have more than doubled between the years 2005/2006 and the estimate for 2007/2008. Is there a particular reason for that?

HON CHIEF MINISTER:

There is much more Government intra-netting. I do not know whether that adds communications costs. I seem to remember I gave him an explanation last year. The sum of £250,000 has been included in the estimates. This increase is due to the rental charge by Gibtelecom in respect of the fibre optic links. Current actual expenditure averages £20,800 per month. Yes, this is the fibre optic link and the bandwidth for the Government's intra net – the linking up of various Government departments, Income Tax with Social Insurance et cetera.

Subhead 9 – was agreed to and stood part of the Bill.

Subheads 10 to 23 – 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 9 FINANCE

HEAD 9-A MINISTRY

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 9-B TREASURY

Subheads 1 to 10 – were agreed to and stood part of the Bill.

HEAD 9-C CUSTOMS

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 9-D INCOME TAX

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

Subhead 4 – Operational Expenses

HON F R PICARDO:

What are the Professional Fees referred to in subhead 4(a) operational expenses? They seem to have doubled from what was estimated for last year.

HON CHIEF MINISTER:

In respect of last year's forecast outturn, they were £7,800 for Companies House searches. We pay a flat £650 per month and £200 for property searches at Land Property Services. I can only assume that the increase is a provision for the fee increases that Companies House has recently made.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – Gibraltar Development Corporation Staff Services

HON J J BOSSANO:

We have got staff services provided to the Income Tax Office by the Development Corporation which was not there. What is the

nature of the work that is being done in the Tax Office by the Development Corporation?

HON CHIEF MINISTER:

Yes, Social Insurance Contributions section has merged with the Income Tax Office. There was one person who was involved in social security administration from the old Key and Anchor days, who we then subsumed into Social Services Agency and who has moved to GDC, I think, in order to be able to move to the Income Tax Office with everybody else.

HON J J BOSSANO:

With everybody else from where? Anybody else from GDC. This is just one person, is it?

HON CHIEF MINISTER:

Yes, because everybody else that came over from the Social Security Department were Civil Servants. Yes, the people involved in social insurance have gone to the tax. One of them was GDC and that is him.

Subhead 5 – was agreed to and stood part of the Bill.

HON J J BOSSANO:

Can I ask – I just missed the other one? In the Customs, I take it that the figure for salaries under personal emolument is unchanged, because the pay review issue or the grading issue is still under negotiation.

HON CHIEF MINISTER:

That is right. The provision for supplementary is higher because there are, in effect, two year's pay reviews pending in this financial year.

HON CHIEF MINISTER:

I am just being asked to correct myself. I indicated when the hon Member asked me for the increase in professional fees in the Income Tax Office, I offered the suggestion that the increase was to reflect increases in Companies House fees. In fact, I am told that that is not the reason. As the Central Arrears Unit has recently come over to the Income Tax Office from the Treasury, this is expenditure that they used to have with company searches and property searches and it is now added to the Income Tax Office. Does he follow that?

HON F R PICARDO:

Yes, and therefore there is no provision for the increase in fees. I think those were announced after the book was published, anyway.

HON CHIEF MINISTER:

Yes, the increase of professional fees is to cover the following expenses incurred by Central Arrears Unit, Crown Counsel, previously Treasury.

HEAD 9-E FINANCE CENTRE

Subheads 1 to 4 – were agreed to and stood part of the Bill.

Subhead 5 – Gibraltar Development Corporation Staff Services

HON F R PICARDO:

In subhead 5, there is provision of £250,000 for GDC staff services, which is then more particularly set out in page 108. But it is not clear how many members of staff there are at the Finance Centre that are GDC. Is there a figure that is available?

HON CHIEF MINISTER:

Yes, it is four. It is for the Finance Centre Director, the Marketing and Liaison Officer, the Marketing and Administration Officer and the PA/PS to the FCD and SEO. Four people.

HON F R PICARDO:

Does the Chief Minister have readily available the breakdown of those salaries?

HON CHIEF MINISTER:

Yes I do. I will give them to the hon Member privately. Unless he wants them without names. I think it will be invidious to bandy about an individual's salary across the floor of the House.

HON F R PICARDO:

Well, we have had the salary of the Finance Centre Director in Question Time and we have had arguments over it. But all the others I think fair enough just to give the position.

HON CHIEF MINISTER:

I will not recite the names, I will recite the numbers and he knows what is what. £107,899; £26,947; £26,947 and £18,360. That is just salaries, then there are other pay roll costs, social insurance contribution, pension, et cetera and other items. So that is the figure for basic current salaries.

Subhead 5 – was agreed to and stood part of the Bill.

Subheads 6 and 7 – were agreed to and stood part of the Bill.

HEAD 10 JUSTICE AND HOME AFFAIRS

HEAD 10-A SUPREME COURT

HON F R PICARDO:

Is there anywhere in these expenses, it may be that the book was done before then, provision for the payment of the Amicus Curiae that has been referred to publicly?

HON CHIEF MINISTER:

The Government do not make provision for ad-hoc expenses. Those are the sort of things that are paid either out of supplementary, or even out of contingency funds.

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 10-B MAGISTRATES' & CORONER'S COURT

HON CHIEF MINISTER:

Nor by the way, going back to the Supreme Court, would the expenses of the Amicus Curiae, be an expense of the Supreme

Court. The hon Member, I am sure, is aware an Amicus Curiae is engaged by the Attorney General, that is a standard established procedure. So it would not, in any event, appear there. It would appear under Attorney General's Chambers or even elsewhere in the Ministry.

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 10-C ATTORNEY GENERAL'S CHAMBERS

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 10-D CIVIL STATUS & IMMIGRATION SERVICE

Subheads 1 to 5 – were agreed to and stood part of the Bill.

HEAD 10-E CIVIL CONTINGENCY

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

HEAD 10-F POLICE

Subheads 1 to 5 – were agreed to and stood part of the Bill.

HEAD 10-G FIRE SERVICE

Subheads 1 to 4 – were agreed to and stood part of the Bill.

HEAD 10-H PRISON

Subheads 1 to 5 – were agreed to and stood part of the Bill.

HEAD 10-I JUSTICE AND HOME AFFAIRS – MISCELLANEOUS

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

Subhead 4 – Tribunals

HON CHIEF MINISTER:

Just to give the hon Member an indication on the subject he raised earlier, this is where the Housing Tribunal will eventually appear. The hon Member will see that we have put all the tribunals here in Head 10-I Subhead 4. All the tribunals, Income Tax Tribunal, Development Appeals Tribunal, GHA Complaints Independent Review Panel – all these tribunals are now clustered under Justice and Home Affairs, Miscellaneous. There will be a (d) in due course in respect of the Housing Tribunal, if the House passes the Housing Act.

Subhead 4 – was agreed to and stood part of the Bill.

Subhead 5 – was agreed to and stood part of the Bill.

HEAD 11 PARLIAMENT

Subheads 1 to 7 – were agreed to and stood part of the Bill.

HEAD 12 GIBRALTAR AUDIT OFFICE

Subheads 1 to 5 – were agreed to and stood part of the Bill.

HEAD 13 SUPPLEMENTARY PROVISION

Subhead 1-(a) Pay Settlements

HON J J BOSSANO:

Can I ask, the pay settlement we have been told will be higher this year because some of last year's pay reviews were not completed? I know that the £1.5 million that has been completed has been redistributed and it is possible to get that information by going back and looking at all the supplementary warrants that have been Tabled in the House. But do the Government have a figure as to whether the £1.5 million was all used up or not?

HON CHIEF MINISTER:

What, the £1.5 million provided last year?

HON J J BOSSANO:

Yes, because the outcome is not shown here, obviously, because it has been distributed in all the other Heads of Expenditure.

HON CHIEF MINISTER:

I am being told that actually no pay settlement statements have been issued in the last financial year. A small amount of that £1.5 million may be used to vire for the supplementary.

HON J J BOSSANO:

I see. So the £3 million is because there are a lot of them that have been carried over.

HON CHIEF MINISTER:

The £3 million is because most of them have been carried over, providing double.

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

HEAD 14 CONTRIBUTION TO SOCIAL INSURANCE FUNDS

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

Clause 2 – was agreed to and stood part of the Bill.

Clause 3

HEAD 15 NON-RECURRENT EXPENDITURE – RESERVE

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

Subhead 2 – Exceptional Expenditure

HON J J BOSSANO:

In respect of the £10,000 for the resettlement scheme, which obviously is for the Moroccans, is it that there are still some people in the pipeline interested in making use of this? There was nothing used in 2005/2006 and there was no provision in last year's estimate, then it sort of has appeared in the forecast. So it suggests that the thing has been revived.

HON CHIEF MINISTER:

I am told that the £10,000 is a token in the event. Because last year they had to re-open this Head for one payment of £5,000. Rather than risk having to do that again, they have made a provision of £10,000. But not because we are aware of any other cases in the pipeline.

Subhead 2 – was agreed to and stood part of the Bill.

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

Clause 4

IMPROVEMENT AND DEVELOPMENT FUND

HEAD 101 – DEPARTMENTAL

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

Subhead 3 – Gibraltar Health Authority – Final Hospital Construction Cost and Other Works and Equipment

HON J J BOSSANO:

This is shown as the final hospital construction cost and other works and equipment. I thought the construction costs were over and done with before the move took place from the old St Bernard's to the new St Bernard's. So what is the new final construction cost? Is it that we are paying for something that has already been done and there was retention, or is it work that is being done now which was not done before?

HON CHIEF MINISTER:

That label is a bit misleading. If Gibraltar Health Authority does final hospital construction costs and other work and equipment, and that is broken down on page 119 of the green book, and it is £688,000 equipment and spares; £200,000 computerisation; £150,000 capital works and £4,962,000 new hospital final contract payment.

HON J J BOSSANO:

So is this a final contract payment in terms of the cost that we knew was being paid from the PFI with RBS, or this is something on top of that?

HON CHIEF MINISTER:

I do not know what the last position is that he knew. This is the payment that would take the total cost, I just do not know how much we have told him before, so I do not know what the state of his current knowledge is. But this is the payment that would take the total cost up to £55.39 million. I do not know if that is

the figure that he had before, or whether before he had a figure of £50.43 million. I just do not know how much he has had out of us in questions in the last couple of Question Times.

HON J J BOSSANO:

I am not sure, I would have to check. What I am trying to establish is, in terms of the money – I remember that at one stage the Royal Bank of Scotland advanced money to the Health Authority, which the Health Authority re-deposited until they paid for the work that was being done. Now, is this on top of the money from RBS and is this GHA money or part of it?

HON CHIEF MINISTER:

This is GHA money and it is the settlement of the final account of the contractor.

HON J J BOSSANO:

So it is not work that is going to be done in the current financial year. The work has already been done.

HON CHIEF MINISTER:

No, this is the final contract payment for the original works. As the Leader of the Opposition knows, at the end of every construction contract there is a retention.

HON J J BOSSANO:

So the £4,962,000 is the retention money, the whole of it?

HON CHIEF MINISTER:

No, in addition to retention monies there are, at the end of every contract, claims for additional works done, claims for delay, there is always a final account, a final reckoning to be done and this is it. But these are not monies that are being paid by RBS, these are monies that are being paid by ourselves.

HON J J BOSSANO:

It is not for works that need to be done in the current financial year?

HON CHIEF MINISTER:

No.

HON J J BOSSANO:

This is shown here as the addition to the forecast outturn of £3 million where there was no original provision. So, is it that the £8 million is the final contract payment? Which has been paid £3 million following before the end of the year and the other after the 1st April, is that the correct interpretation?

HON CHIEF MINISTER:

Yes, that is right. Reading from the green page, yes. £4.969 million and £3 million that is just shy of £8 million. Correct.

HON J J BOSSANO:

But it is one payment, it just happens to fall on the two sides?

HON CHIEF MINISTER:

No. As I recall, there was an agreement that the first instalment was paid on 31st December last year and this one is due on 31st December this year.

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

Subhead 4 – Prison Equipment and Refurbishment

HON J J BOSSANO:

On subhead 4, this is of course for the existing prison, is it that nothing is likely to be happening with the prison in the current financial year, in terms of the alternative that was being looked at by the Government?

HON CHIEF MINISTER:

No, it does not mean that. If the Leader of the Opposition turns to Head 103 Projects, Item 16, there is an item there under other projects – new prison. See, the new prison is not departmental until it is built and handed over to the department. Until it is built it is dealt with under Government Projects. So there is a provision there of £3.7 million for the new prison this year.

Subhead 4 – was agreed to and stood part of the Bill.

Subheads 5 to 19 – were agreed to and stood part of the Bill.

Subhead 20 – Street Cleansing – Plant and Equipment

HON J J BOSSANO:

In subhead 20 street cleansing which I assume is a token, unless we are going back to straw brooms, £1,000 worth of plant and equipment for street cleansing. But is it not part of the contract that we have just voted on recurrent expenditure, something that requires that company to provide its own equipment to clean?

HON CHIEF MINISTER:

It is certainly a token. Under the new contract there is a need to replace some quite expensive equipment that is used in street cleaning. Particularly these machines that are very expensive, the thing that travels down the street, very expensive. Each of those machines costs in excess of £100,000. Now, under the new contract that has been signed, the Government have the option of whether to buy the equipment themselves, or to allow the company to buy it from its own borrowed monies, and then fund the company through the contract mechanism. In other words, it is simply a question of whether the Government incur this capital expenditure themselves, in which case, we will use this token vote. Or whether we will not and we let the company buy the equipment, which will I suppose, be reflected in higher contract payments.

HON J J BOSSANO:

So if the Government bought it then the company would be provided with the equipment which would belong to the Government.

HON CHIEF MINISTER:

Correct. What I cannot tell the Leader of the Opposition is whether the amount provided in the Consolidated Fund for the

funding of this contract assumes a level of capital expenditure by the company, and that that amount includes the payment for that capital expenditure through the contract mechanism, in terms of an annual debt servicing payment, for example. So both figures are zeroed on that issue.

HON J J BOSSANO:

I see. So in fact, it means that in either one or the other there will be extra.

Subhead 20 – was agreed to and stood part of the Bill.

Subheads 21 to 42 – were agreed to and stood part of the Bill.

HEAD 102 – CENTRAL PUBLIC ADMINISTRATION AND ESSENTIAL SERVICES

Subheads 1 to 10 – were agreed to and stood part of the Bill.

Subhead 11 – Tetra System for Essential Services

HON J J BOSSANO:

Can I ask? What is this system that we have got in subhead 11?

HON CHIEF MINISTER:

Yes, the Tetra system that was purchased originally, which is the radio system for essential services, the radios of the police, the fire brigade that everybody uses, is now old technology and needs to be replaced.

HON J J BOSSANO:

It was not very long ago.....

HON CHIEF MINISTER:

Indeed not, I think that it is the consequences of getting into new technology too soon. It becomes obsolete too quickly. One is better off waiting with old technology for a few years and waiting for the new technology to become embedded elsewhere and then buy it. I think that this is a lesson the Police has learnt in this case.

Subhead 11 – was agreed to and stood part of the Bill.

Subheads 12 and 13 – were agreed to and stood part of the Bill.

HEAD 103 – PROJECTS

Subheads 1 to 6 – were agreed to and stood part of the Bill.

Subhead 7 – Dudley Ward Tunnel Access Safety Works

HON J J BOSSANO:

In subhead 7, is the access safety works what is required to re-open or is this only an early stage of what is needed? There is no balance to complete there.

HON CHIEF MINISTER:

In new Upper Town relief road, the.....

HON J J BOSSANO:

I am asking about Dudley Ward Tunnel, subhead 7. What I am asking is, since it says access safety works, is this the cost of re-opening the Dudley Ward Tunnel or not?

HON CHIEF MINISTER:

No.

HON J J BOSSANO:

So what is it then? What do they want to access if they cannot go in it?

HON CHIEF MINISTER:

I think there is a figure missing there in the balance to complete column. There is a figure missing in the balance to complete column.

HON J J BOSSANO:

Yes, that is why I said there is nothing left to complete.

HON CHIEF MINISTER:

My recollection is that that contract is in the order of £5 million. Yes, the cost of that project is around £6 million. So, the Leader of the Opposition has spotted there, there ought to be a figure there in the balance to complete column. I apologise, it is missing.

HON J J BOSSANO:

Given that the only balance to complete figure is the one on the beautification of Main Street, if it has been missed out in any other, would it be possible to include it when the book is republished as Approved Estimates, so that at least we have got it there if it has been left out in any other one?

HON CHIEF MINISTER:

I am just trying to go down the list to see if there are any other obvious examples of it. Obviously, the Upper Town Renewal does not have a balance to complete, but that is difficult because how long is a piece of string? One can spend on Upper Town Renewal as much as one likes, it is an on-going thing, so that would not really warrant a balance to complete.

HON J J BOSSANO:

Well, if it is a specific road, it says relief road.

HON CHIEF MINISTER:

No, I am not talking about the Upper Town relief road, I am moving on. The Upper Town relief road is nearly finished, so there is no balance to complete there. I am talking about Upper Town Renewal, item 10. I am just going down the list to see if there is any other obvious example. Obviously on item 12 that is a token. Therefore, if we do fund it through the Improvement and Development Fund, there is a huge balance to complete figure there. But if it was funded by some other mechanism, like PFI for example, then it will not appear like that. Well, Camp Bay, unless Little Bay is separately Head located because there is a second phase there, so that is no balance to complete there. There is a balance to complete in Europa Point. I think that that is the only omission. In any case I will have it checked

and if there are any other omissions we will do as he has suggested. But I think it is the only other omission. I do not know whether the Construction of Sewage Pumps may have a balance to complete, the very last item on that page, but I think it is the only glaring omission.

HON J J BOSSANO:

Can I ask? The commercial parking projects that were there last year have all now been removed and are transferred to the Commercial Property Company, so we will not have information as to how much has been done and what is left to complete. Does the Chief Minister have an indication of that? Obviously, it will not be appearing in this book since the original was there.

HON CHIEF MINISTER:

Well, I may have some in-house information, the information that the Principal Auditor's report says that the Government do not do. In fact, they do, but in the value for money thing done by Price, Waterhouse Coopers, obviously much more happens in terms of capital financial planning than whoever wrote that report for the Principal Auditor has bothered to find out if it exists or not. Anyway, be that as it may, leave that for another day, the parkings, item 6, the parkings at Willis's Road, Sandpits, Harbours and Vineyards are costed, if he wants to make a note just for the sake of it, the parking at Willis's Road at £3.4 million, Sandpits at just over £2 million, £2,050,000; New Harbours Deck at £2.8 million. Those are the costs of the exercise and most of that, all of those in fact, are going to be finished during this financial year. The ones that we have just started.

HON J J BOSSANO:

When they are finished what, they will be the property of the Commercial Property Company?

HON CHIEF MINISTER:

They will be the property of the Commercial Property Company and, obviously, any capital proceeds or any rental proceeds, it depends – some will go on sale, some will go on rental – but some maybe have to be used for free public parking to replace parking loss on the highway. For example, the ones on Devil's Tower Road will have an element of that, and all of that will be revenue for the companies in due course.

Subhead 7 – was agreed to and stood part of the Bill.

Subhead 8 – was agreed to and stood part of the Bill.

Subhead 9 – Sound Insulation of OESCO Station

HON F R PICARDO:

Is this the full amount in subhead 9 for the OESCO insulation?

HON CHIEF MINISTER:

Again, I have to refer to the document that others think does not exist. Yes, I believe so. I think it depends on the final specification that we select to apply. There is one model that costs £1.5 million and there is another model that costs £2 million. If we do the £1.5 million model this is the whole amount. If it is the £2 million, then there is another £500,000 in addition to that.

HON F R PICARDO:

The project period is under a year, is that right?

HON CHIEF MINISTER:

I cannot say. It is implicit in the fact that they have asked for the £1.5 million this year that they think that they can do it. I would be part sceptical about whether it can all be finished between now, it is no longer a year, it is now nine months left effectively of the year to March 2008.

HON F R PICARDO:

That is principally roof work, is it?

HON CHIEF MINISTER:

It is roof and window work, and quite a lot of, there is some, engine vents and silencing and things like that, but it is mainly civil works, mainly roof works.

HON F R PICARDO:

If it is work to the engine.....

HON CHIEF MINISTER:

No, not work to the engine, it is outflow exhaust.

HON F R PICARDO:

Those belong to OESCO, do they not?

HON CHIEF MINISTER:

Yes, but as that is going to be managed downwards, we have to have a conversation with OESCO about that, as to whether they should be required to invest in a building that we have a very short lifetime left for uses there as a power station.

HON F R PICARDO:

I understand that. It is just that when we have discussed this item before and what the report was apparently also about, was what works needed to be done to the building by the Government as landlord. I would have thought that anything that needs to be done to the exhausts is part of the machinery that OESCO has invested in rather than anything else.

HON CHIEF MINISTER:

The question is whether OESCO will be required to do that, or given the very short expected shelf life left of that plant, it is just allowed to continue.

HON F R PICARDO:

I understand that, but even if OESCO.....

HON CHIEF MINISTER:

If it is done, our view is that it is their liability.

HON F R PICARDO:

It would be my view too, so it should not be here, is that right?

HON CHIEF MINISTER:

Correct, this does not include for that. These are for works that are the Government's responsibility to undertake.

HON F R PICARDO:

To the building?

HON CHIEF MINISTER:

Yes. There is no provision in this amount of money for any of the OESCO question mark works.

HON F R PICARDO:

Any of the works to be done to the machinery. Simpliciter.

HON CHIEF MINISTER:

Correct.

Subhead 9 – was agreed to and stood part of the Bill.

Subheads 10 to 18 – were agreed to and stood part of the Bill.

Subhead 19 – Relocation Costs

HON F R PICARDO:

In terms of relocation costs, when we are dealing with the MOD and I know that this is part of the wider lands memoranda expenditure, or lands agreement now, does any part of that

£690,000 include the expenditure that might be partly incurred in relation to the new power station?

HON CHIEF MINISTER:

No, this is all the 2004 land deal.

Subhead 19 – was agreed to and stood part of the Bill.

Subhead 20 – Construction of Sewage Pumping Stations

HON J J BOSSANO:

The construction of the pumping stations, are these connected with new projects or are they something that is being done as part of the replacement for the existing sewers of pumping stations that have been there a long time?

HON CHIEF MINISTER:

No, these are construction of sewage pumping stations that are required in Queensway and in British Lines. The one at British Lines is much more expensive for some reason, but between them they cost £1.2 million.

Subhead 20 – 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 – was agreed to and stood part of the Bill.

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

THIRD READING

HON CHIEF MINISTER:

I have the honour to report that the Appropriation Bill 2007 has been considered in Committee and agreed to, without amendments, and I now move that it be read a third time and passed.

Question put. Agreed to.

The Bill was read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Friday 29th June 2007 at 2.30 p.m.

Question put. Agreed to.

The adjournment of the House was taken at 7.23 p.m. on Thursday 28th June 2007.

FRIDAY 29TH JUNE 2007

The House resumed at 2.45 p.m.

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

ABSENT:

The Hon F Vinet - Minister for Heritage, Culture, Youth and Sport

The Hon Miss M I Montegriffo
The Hon L A Randall

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

BILLS

FIRST AND SECOND READINGS

THE INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) ACT 2007

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Interpretation and General Clauses Act, be read a second time. Mr Speaker, the purpose of this Bill, in respect of which I have given certain notices of amendment, is to amend the existing Interpretation and General Clauses Act to bring it into line with changes effected by the new Constitution. The Government have also taken advantage of this opportunity to effect some other housekeeping amendments that I shall explain. Clause 2(2) amends section 2 of the Act, which is the interpretation section. As a result of the change from Ordinances to Acts, there is a need to define Acts of this Parliament in a manner that distinguishes those Acts from the Acts passed in the United Kingdom. The formulation adopted in the interpretation of the Act is that without further an Act shall be deemed to be a Gibraltar Act, and the corresponding UK equivalent will be referred to as a UK Act. There may, however, already be instances where the legislation, that is to say our legislation, already refers to Acts as meaning those passed at Westminster. For example, all the Gibraltar Ordinances before the new Constitution, when they wanted to refer to a UK piece of legislation, would be referred to as Acts. Acts is now a name that we want to use for our own. In future, in the unlikely event that any of our future legislation should wish to refer to a UK Act of Parliament, we will refer to them as UK Acts. In the

meantime, there is a problem with what to do about all those historical references. What this Bill is saying is that where, prior to the date of coming into effect of our Constitution, any of our legislation said "Act", in those cases Act still means Act of Westminster. Otherwise we would have to go through every piece of legislation amending it. But in future, any reference to the word "Act" inserted into legislation from now on, would be an Act of the Gibraltar Parliament and so on and so forth. I am certain that the hon Members will support, and particularly support the provision in this Bill, that sweeps away from our own Interpretation and General Clauses Act, the definition of the words "the Colony" and "British possession". Those are still defined terms in our Constitution. As we consider ourselves neither a Colony, nor indeed a British possession, and those are no longer words that are used in our legislation, the definitions are eliminated. There are also instances of updating in this sub-clause. Namely, the deletion of references to the now defunct Assembly, to the Court of First Instance, Assembly becomes Parliament, the Court of First Instance no longer exists. The Deputy Governor is removed, for reasons the hon Members know, as is the Financial and Development Secretary and also Revenue Officer. Also the addition of definitions of Chief Secretary, Financial Secretary and Customs Officers, of which the first two are obvious. The Chief Secretary is not a defined term, Administrative Secretary used to be a defined term. We now use the phrase Chief Secretary so we are taking this opportunity to put that phrase in the Interpretation and General Clauses Act. Ditto Financial Secretary and also the term Customs Officer, which is the phrase that we use now. We no longer use in our legislation the phrase Revenue Officer, and that is not the relevant term to stand defined in our Interpretation and General Clauses legislation. Other changes relate to the acknowledgement that Gibraltar has progressed in legal terms since the introduction of this Act in 1962. The definition of "common law" is thus widened to reflect the fact that Gibraltar now has its own common law. So, common law now not only means the common law of the United Kingdom, because our own courts now make common law through their own decisions, which are reported in the Gibraltar Law Reports of the new

judgements of Gibraltar cases in Gibraltar courts. Also, the definition of “the court”, the amendments reflect that there are now courts beyond Gibraltar that exercise some jurisdiction here in Gibraltar. Such as the European Court of Human Rights and the European Court of Justice. So the definition of courts in our legislation has got to be widened to include these courts. Sub-clause (3) deletes an antiquated reference to the Secretary of State for Colonies. The majority of the changes effected by the remaining sub-clauses, deal with the incorporation of the UK to make those references to UK Acts of Parliament, or reflect the transfer of responsibility from Governor to Government, or Minister, or both. Or where the responsibility falls on any combination of these, on that combination. For example, in section 43 there is one such example, provided for the Governor to appoint public officers to Boards. This is amended to reflect that the power may be vested by the Act on the Governor, or the Government or a particular Minister, because of course, in the days that this Act was first passed in 1962, the Governor made all appointments to all these things. Now different laws make different provisions. Some of our law says the Governor makes appointments, other law says the Government, other law says the Ministers. So in section 43 of the Interpretation and General Clauses Act, which says, in case hon Members do not have it in front of them, that whereby any Act power is given to the Governor to appoint any person to be members of any Board, Commission, Committee or similar body, it shall be lawful for the Governor, in the absence of any provision to the contrary, to so appoint by his official designation any public officer or other officer, and on such appointment et cetera. In other words, the appointment of substitutes. The power to appoint substitutes in our Interpretation and General Clauses Act, is no longer limited to appointees of the Governor to Boards, but to appointees of anybody else that has the statutory power to make the appointments. I have given notice by letter of 14th June, to move certain amendments to the Bill, which I will take the House through at Committee Stage. Looking at the Act, before I sit, I just want to make sure that I have alluded to all the amendments that may be of some consequence. Yes, one of the amendments that we are making is to the definition of

“Governor”. Governor no longer means the Governor and Commander in Chief of Gibraltar, and includes any officer for the time being administering the Government through other antiquated phraseology. The Governor no longer administers the Government. It is now, Governor means the Governor and Commander in Chief of Gibraltar and includes any officer for the time being exercising the powers and functions of the Governor under the Constitution. The notion that the Governor administers the Government is therefore deleted from the Act. Hon Members will see that in the definition of “statutory declaration”, there is a reference to a statutory declaration being made in the United Kingdom or any British possession beyond Gibraltar, implying that Gibraltar is a British possession. I think post the new Constitution, the idea that Gibraltar is a possession of the United Kingdom is antiquated, so we describe Gibraltar in different terms. We say, in the United Kingdom or any other part of Her Majesty’s Dominions, thereby suggesting and specifying that Gibraltar is part of Her Majesty’s Dominions, as opposed to a British possession. I have referred the hon Members to all the nomenclature changes, particularly the Acts and the House of Parliament and the House of Assembly. I think, in terms of the amendments that have effect from the principles of the Act, I believe that I have pointed them out to the hon Members. The old section 70 of the Act, relating to the signification of orders of the Governor, that in fact has already been repealed by a piece of legislation we have already passed, the Gibraltar Laws (General Amendment No. 1) Act 2007. 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 CRIMINAL PROCEDURE AND EVIDENCE ACT 2007

HON CHIEF MINISTER:

Mr Speaker, I beg your pardon, I meant to give formal notice of the fact, I had already advised Opposition Members, we are not proceeding with this Bill in this meeting of the House.

THE OIL IN TERRITORIAL WATERS (AMENDMENT) ACT 2007

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Act to amend the Oil in Territorial Waters Act, 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 updates the Act in terms of the level of fines for those guilty of oil spillages. The Parliament will be aware of the importance of this issue. There is a need to ensure that such spillages do not happen in the first place, we are constantly vigilant about this. However, if such spillages do

occur, we need appropriate deterrents. Penalties are increased in the new section 3(1) introduced by the Bill, and the possibility of conviction on indictment where the fine is unlimited is also introduced. New section 3A provides for corporate liability and, most importantly, provides that the person convicted of an offence may also be ordered to pay the clean up costs for any damages caused by this spillage. The introduction of these two elements means that the principle that the polluter pays is actually a reality. The court may be unwilling to charge an individual, however culpable, with the full cost of the clean up operation but will have no difficulty in charging a company. Finally, the Bill updates the fines in line with the standard scale for lesser offences under that Act. 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 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 CONSUMER PROTECTION (EU COOPERATION) ACT 2007

HON DR B A LINARES:

I have the honour to move that a Bill for an Act to facilitate the implementation in Gibraltar of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the

enforcement of consumer protection laws as amended by Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market, and matters connected thereto, be read a first time.

Question put.

Agreed to.

SECOND READING

HON DR B A LINARES:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill makes provision for the implementation of Regulation (EC) 2006/2004 as amended. The Regulation was adopted in 2004 to stop dishonest practices of traders, targeting consumers living in other European countries. It lays down the framework and general conditions under which Member States are to cooperate. The Regulation sets up an EU-wide network of national enforcement authorities, with similar investigation and enforcement powers. Under the new system, each of these authorities are able to call on other members of the network for assistance in investigating possible breaches of consumer laws, and in taking action against rogue traders. The network will tackle breaches of consumer law in a variety of areas, such as misleading advertising, package holidays, time shares and distance selling. Typical examples are of us stopping certain time share companies from using had-selling techniques or businesses offering their goods through the internet, but not informing correctly about the terms and the conditions of contracts. For example, the right to withdraw from a contract without penalty, terms of delivery, administrative expenses. The network will also help stopping cross-border scams, such as deceptive prize draws and international lotteries. The Regulation further sets out supporting measures to foster expertise and cooperation between authorities, as well as the possibility of international

cooperation agreements with third countries. Clause 2 of the Bill is the standard definition clause. Clause 3 appoints the competent authority, that is, the Consumer Affairs Minister and a single liaison office, which will be the Office of the Chief Secretary. Clause 4 makes provision for enforcement. Pursuant to this clause, the competent authority may apply to a JP for an order to enable a named officer, including a police officer, to investigate an infringement of the Regulation. A JP will then issue such an order only when there is a reasonable suspicion of an infringement. There are a couple of typographical errors in the green paper, that I suppose I will bring to notice at the Committee Stage. Clause 5 makes provision for penalties for failure to cooperate with an investigation ordered under the previous clause. Pursuant to the clause, a failure to cooperate will attract a fine at level 5 on the standard scale, which is equivalent to £5,000. Pursuant to clause 6, the competent authority may retain documents, following an investigation for such time as the JP may consider reasonable. Clause 7 makes an exception for data protection under the Data Protection Act 2004. Thus, the competent authority and the RGP need not disclose any information related to an investigation. Finally, clauses 8 and 9 make provision for regulations and rules of court. 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 later today.

Question put.

Agreed to.

THE LANDFILL (AMENDMENT) ACT 2007

HON J J NETTO:

I have the honour to move that a Bill for an Act to amend the Landfill Act 2002 in order to complete the transposition of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, and to transpose into the law of Gibraltar Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC, and matters connected thereto, 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 Bill before the House completes the transposition of Directive 1999/31 and transposes Council Directive 2003/33. The Directive is intended to prevent or reduce the adverse effects of the landfill of waste on the environment, in particular on surface water, ground water, soil, air and human health. It defines the different categories of waste – municipal waste, hazardous waste, non-hazardous waste and inert waste that applies to all landfills, defined as waste disposal sites for the deposit of waste onto or into land. Landfills are divided into three classes, landfills for hazardous waste; landfills for non-hazardous waste; landfills for inert waste. On the other hand, the Directive does not apply to the spreading on the soil of sludges, including sewage sludges and sludges resulting from dredging operations; the use in landfills of inert waste for redevelopment or restoration work; the deposit of unpolluted soil or of non-hazardous inert waste resulting from

prospecting and extraction treatment and storage of mineral resources, as well as from the operation of quarries; the deposit of non-hazardous dredging sludges alongside small waterways from which they have been dredged; and of non-hazardous sludges in surface water, including the bed and its sub-soil. A standard waste accepting procedure is laid down so as to avoid any risk. Waste must be treated before being landfilled. Hazardous waste, within the meaning of the Directive, must be assigned to a hazardous waste landfill. Landfills for non-hazardous waste must be used for municipal waste and for non-hazardous waste. Landfill sites for inert waste must be used only for inert waste. The following waste may not be accepted in a landfill – liquid waste; flammable waste; explosive or oxidising waste; hospital and other clinical waste which is infectious; used tyres (with certain exceptions); any other type of waste which does not meet the accepting criteria laid down in Annex II. The Directive sets up a system of operating permits for landfill sites. Applications for permits must contain the following information – the identity of the applicant, and in some cases of the operator; a description of the types and total quantities of waste to be deposited; the capacity of the disposal site; a description of the site; the proposed method for pollution prevention and abatement; the proposed operation, monitoring and control plan; the plan for closure and after care procedures; the applicant's financial security; and impact assessment study where required under Council Directive 85/337/EEC, on the assessment of the effect of certain public and private projects on the environment. Finally, Member States must ensure that existing landfill sites may not continue to operate, unless they comply with the provisions of the Directive as soon as possible. Most provisions of the Landfill Directive were transposed in 2002 through the Landfill Act. However, a minor provision was not included in that transposition. This is represented by clause 2(b) of the Bill, which imposes an obligation on the authorities to visually inspect the waste being landfilled, in order to ensure that it accords with the description of it in the associated documentation. Clause 2(a) and new Schedule 4 implement Council Decision 2003/33. This Decision amends the 1999 Directive by making detailed provision for the procedures and

criteria to be used for the acceptance of waste. These are set out in detail in the Schedule. I commend the Bill to the House.

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

HON F R PICARDO:

Just a very simple observation. The Bill really introduces the Schedule, which is a reproduction of the Annex to the Decision. The Schedule has not been taken and turned into a home-grown schedule that does what the Annex suggests that needs to be done. What we have done is taken, very obviously, a photostat of the Annex and we have inserted that as our schedule, which in many instances, may be all that we need, especially in an area where there is likely to be little activity in relation to landfill. But it may be arguable that there are landfills sites in Gibraltar. I do not know whether that is the position and the Minister may be able to shed some light on whether there is an argument that there are landfill sites in Gibraltar. I note, in going through the Schedule at face value, of course this has been published in the Official Journal, it tells the Member States that it needs to do things. So for example, on page 821 just above other criteria, Member States shall set criteria for monolithic waste, to provide the same level of environmental protection given by the above limit values. Then at the bottom, Member States must set criteria to ensure that all waste will have sufficient physical stability and bearing capacity. Member States shall set criteria to ensure that hazardous monolithic wastes are stable and non-reactive before acceptance in landfills for non-hazardous waste. At the very back in Table 1, in page 833, on the right-hand side and this is really a summary of what the Schedule does, it will be seen that there are certain criteria which the table shows us and not set at an EU level. Now, the law is there for people to know what they must and must not do, and this law will be relevant, perhaps, to some people in the industry of rubbish collection and depositing et cetera. If they were to seek advice on what the limits are in Gibraltar, from the Schedule as it presently stands and the

original Act, the 2002 Act as amended by this, I do not think it will be possible for them to work out what the Member jurisdiction – Gibraltar – has fixed as those levels. I bring this up simply so that the House is aware of it, and either we are told that those criteria are perhaps going to be set by regulation or rules or otherwise, or that the Schedule will eventually be amended to provide for that. It may be that I am talking about a subject which is as relevant as rivers may be in Gibraltar, but I think it is pertinent to point that out.

HON J J NETTO:

I am trying to address some of the points that the hon Member has said. With regard to the practicalities of this, let me say that the interpretation that we have is that there are no landfill sites in Gibraltar. We may have reclamation sites, we are also seeking Council advice just to make sure that the technical advice given to me is the correct one. But it has not always been the case. Therefore, whenever there has been any particular waste to be disposed of under the classifications which I have read here, hazardous, non-hazardous or inert, that actually takes place in Spain it does not take place in Gibraltar. For that procedure to take place, somebody who is actually moving some particular waste, actually first has to get an operator from Spain coming over here, which will have a dossier of documentation, in order to ensure that the relevant compliances in the criteria in which it has been taken, in taking the waste over to Spain. So, therefore, the competent authority in Spain, when looking at the frontier at all the waste that needs to be disposed, will automatically be able to determine which particular landfill site has been determined for the three classifications which I have said before. Basically, that is the documentation. Obviously, from a local perspective, the Environmental Agency is the particular authority which actually gets the dossier in Gibraltar and ensures that all the documentation is in accordance with all the descriptions which I have said here, which has taken place for some time now. Who is the particular operator – identification of that; what is the

material, what are the quantities, what is the site? So there is an audit trail being taken, both in Gibraltar and in Spain and into the site, and a certification process according to the waste.

HON F R PICARDO:

I accept that. I think when I started I said that it might be very likely that there are no landfill sites within the definition of the Directives and of the Decision. The question is whether this is adequate transposition of the Directive, if it does not provide for the parts of the Schedule that the Member State is expected to fill in. That is the only issue of concern to me. Indeed, we are not challenging this as not being effective transposition. We just want to make sure that it is, or that the Government are satisfied that it is and then we will be satisfied.

HON CHIEF MINISTER:

The Government are satisfied that there is no problem arising from the point that the hon Member identifies and makes. The Government understand that one cannot create legal obligations on individual citizens under our law, simply by cutting and pasting a number of pages which says the Member State shall do this, the Member State shall do that. This does not have that effect. The Schedule has got to be read in relation to the words in the sections in the Act, which then would relate back to the Schedule. So, for example, remember we are amending, there is already a Landfill Act. Section 6(3) of the Landfill Act, presently reads, the operator of a landfill for hazardous waste shall only accept waste which fulfils the waste acceptance criteria set out in paragraphs 1 and 2 of Schedule 1, and now we are adding and Schedule 4. So, it is the section that creates the obligation on the individual, so the references to Member States are not what generates the obligation of the individual. There are a series of criteria referred to there, albeit by reference to Member State. Those are the criteria that are alluded to and which under the text, which is inserted in the

main body of the legislation, the individual is being given an obligation by the main body of the legislation and not by the Annex to adhere to. The same applies with subsection (7).

HON F R PICARDO:

I am grateful for that. But it refers the individual to the Schedule to see the limits of what it is that he is required to do. Then the Schedule, it says, the Member State shall set that limit. Now, for the reasons that we have discussed, maybe this is totally irrelevant practically to Gibraltar and is more a point relating to our effective transposition, rather than anything else. But if the Government are satisfied in that respect, then we would be happy.

HON CHIEF MINISTER:

Let me illustrate the point in this way in order to further satisfy the hon Member that it is okay. If there is a schedule in an Act of Parliament that says that Government Ministers shall have milk and two sugars in their coffee, one can amend the legislation to say individual citizens shall have their milk and coffee in the way that is referred to in the schedule. They go to the schedule which says Ministers must have their coffee with milk and two sugars. The relevant bit of that is the milk and two sugars, which is the only thing that it says about how coffee should be taken. Read in conjunction with the words added in the section, in other words, the section is only there for the bits that are relevant. The bits that are relevant are the criteria alluded to in the section. Read together with the section, it is the individual citizens that have the obligation to adhere to those criteria. So we are entirely satisfied but I understand that the hon Member is not making a political point, rather a technical point, of effectiveness of the legislative process.

HON F R PICARDO:

The concern, perhaps, would better be put like this. If the section says citizens may only have their coffee as set out in the schedule at part 3. If in part 3 instead of there being a criteria for, for example, with one sugar, milk; with two sugars, no milk, if the schedule were in fact to say, the Member State may set out how many sugars one may have with milk, then the citizen would not know. That is the point I am making, because here it says in relation to certain aspects of the legislation, the Member State may set for itself et cetera, and we do not appear to have done so.

HON CHIEF MINISTER:

In those cases where certain things have to be prescribed, until they are prescribed there is no obligation. But in all the cases where there are actually amendments to the Bill, it is not of that sort, it is of the sort in my analogy where there is a clear. For example, the next example says in subsection (7), the sampling and testing methods listed in section 3 of Schedule 4 shall be used for determining the acceptability of waste at landfill. Well, there are sampling and testing methods alluded to in the schedule. So there could be two sorts, my sort and his sort. In my sort the legislation is already complete and effective. Were there to be instances of his sort, where the Member States had to prescribe anything, be it the methodology or a criteria or a standard, that has to be prescribed. Now if it is something that is compulsory to prescribe, until it is prescribed the transposition is not effectively completed. If it is something that is not compulsory to be prescribed, in other words, it is something that the Member State may prescribe, then it already is complete. But I could not tell him into which of those two categories his examples fall.

HON F R PICARDO:

Exactly, that is why the three aspects of transposition at page 821 that I referred the Parliament to earlier, are the ones that refer to Member States having to do things. For example, Member States shall set criteria; Member States must set criteria. From my reading of the principal Act and the Schedules, and they are very technical so it may be that the Chief Minister can tell us that he is advised that these things have been done and I just have not been able to identify them, there are things in this Schedule that the Member States (that is why I say Member jurisdiction) must do, which I think we have not done and which might render the transposition, as yet, incomplete. That is why when I started my address I was simply saying, are we going to do those by regulation or by rule or are we going to perhaps amend the Schedule further on? If that is required, if that is brought to our attention, although again, it would not be an issue or urgency or concern because we do not, we are told, have landfills. In the same way that we all know that we do not have rivers. But from a point of view of transposition, this may be a relevant point which is more relevant, perhaps, in relation to other statutes that may come across our table than this one. But I thank the Chief Minister for giving way originally and hope that we can all allow listeners to get on with their teas and coffees, however they may wish to take them.

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 HOUSING ACT 2007

HON C BELTRAN:

I have the honour to move that a Bill for an Act to make provision for the proper and effective use of Government housing; to make provision about the rights and obligations of landlords and tenants of residential premises; to make provision about property management, to make provision about anti-social behaviour in relation to housing; and to make other provision about housing and for connected purposes, 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 reforms the system for the administration of Government housing. It reforms and incorporates the Landlord and Tenant Act as it relates to residential dwellings, makes legislative provision for anti-social behaviour legislation, covering all housing areas; sets up a new Housing Tribunal and a statutory Housing Advisory Council; and consolidates the current law relating to management companies. This Bill results in all of Gibraltar's housing legislation being consolidated in one Housing Act. I would like to start by concentrating on the Government housing provisions which form an important part of the new measures being introduced by the Bill, and which replace the scanty and now totally outdated and inadequate provisions in the Housing Special Powers Act. The Bill reforms the Government housing administration, firstly by establishing a Housing Authority, charged with the general management, supervision and control

of public housing. The Minister for Housing will, in future, have the benefit of being advised on Government housing by a newly established Government Housing Advisory Board. Advice rendered may be on matters relating to the Minister's powers, functions and responsibilities in connection with the provision, administration and management of Government housing. The Board's composition will include the chairperson of each Government Estate Tenants Association. I have something to say about these associations later on. Government are retaining the Housing Allocation Committee, that throughout the years has performed such an important role on the allocation of Government housing. It will now be empowered to advise the Housing Authority in relation to the administration of any scheme approved by the Government for allocation of Government housing; on allocation of public housing and rules relating to public housing, such as for example, eligibility, exchanges, decanting, homeless persons, new estates and other special or exceptional circumstances. The Bill makes provision to enable the Principal Housing Officer to avoid and rectify illegal and unauthorised works and alterations in Government housing. These powers include the issue of restoration orders, demolition orders, stoppage orders and the power for the Principal Housing Officer to enter the public housing and rectify the situation itself, when a tenant is unable or has failed to comply with the requirements of one of these orders. It will be an offence, in any case, to fail to comply with such an order. The Government's housing policies have reduced and continue to reduce the number of applicants on the Housing Waiting List. As a further step, Government tenants will in the future, and I stress that this measure affects only future tenants, will lose their entitlement to public housing if they own private housing in Gibraltar, which could if they decide, be available for their occupation. The Bill gives the right to Government tenants to buy their flat or house at a discounted market value under such schemes as may be created, from time to time, for that purpose. All proceeds of such sales will be re-invested by the Government in public housing. Other aspects of Part 1 of the Bill include effective provisions for the recovery of rent arrears once the Ministry for Housing has obtained a court

judgement. In such circumstances, the Principal Housing Officer may serve a direction on a tenant's employer, requiring the latter to deduct such amounts and at such times as the direction requires, and to pay the deductions to the Principal Housing Officer to meet the debt. The Bill also makes provision for a statutory framework for the establishment and recognition by the Housing Authority of tenants associations representing Government estates. The framework provides for the functions of a tenants association as well as for the contents of its constitution. The Government have now taken new powers regarding the administration of Government housing, but its tenants as well as applicants for public housing, are given the rights of appeal to the Housing Tribunal against all decisions of the Ministry for Housing, the Principal Housing Officer and the Housing Allocation Committee. I shall touch upon this new Housing Tribunal in a moment. So much for the reforms which deal exclusively with the administration of Government housing.

In a wider context, the Government will be establishing a Housing Advisory Council under the provisions in the Bill. The functions of the Council will be to assess and keep under review the housing market in Gibraltar, and in particular, to monitor supply, demand, house prices and affordability, both in relation to purchase and rental housing, and to advise the Government thereon. The Council will advise the Government on all matters related to both Government and private housing in Gibraltar. The Council comprises of the Minister for Housing, the Principal Housing Officer, the Managing Director of Land Property Services Limited, two representatives of private housing estates, two representatives of Government housing estate tenants associations, two persons representing the interests of private landlords and two other persons knowledgeable and experienced in housing issues, selected by the Minister. We also hope to have two other persons representing tenants interests.

I will now deal with the reforms and incorporation into the Bill of those aspects of the Landlord and Tenant Act which relate to residential dwellings. This reform of the Landlord and Tenant

Act follows several years of detailed consultation with representatives of tenants and of property owners. Gibraltar's social needs have changed over the many decades since the current Act was introduced, and its provisions now need refreshing. Care is taken in Part 2 of the Bill, to protect the rights and position of existing tenants and protect financially vulnerable tenants from the economic effects of rental increases, by extending the Government's rent relief scheme to provide tenants in controlled tenancies. I will briefly touch on the principal reforms on the relationship between private landlords and their tenants. Part 3 of the existing Landlord and Tenant Act is being repealed but is reprovided in the Bill with the following modifications. The 1945 rule is restored. Accordingly, the Act will only apply to dwellings that have been erected on or before 1st January 1945. However, any right exercised by a tenant under the rule that has applied since 1993, will remain protected. Statutory rents in private houses, which have remained low and have not increased since the mid 1980s, will therefore increase by 100 per cent. Although the percentage is very high it is a percentage of such a low figure that the actual money increase is much less than the real cost increases in housing. As I said earlier, in order to protect tenants who may suffer financial hardship, the Government will extend the rent relief system to tenants of private housing in controlled tenancies. The old section 15 tenancies remain protected at the current rents, which become the statutory rent and therefore will not be subject to the 100 per cent increase. However, all rents will be allowed to increase annually automatically by the percentage increase in the Index of Retail Prices. The old section 36 tenants will become jointly and severally liable for the rent. There will be a register of section 36 tenancies and tenants. A protected tenant who is paying the statutory rent will not be allowed to sub-let any part of his or her property. In the case of previous sub-lettings, the landlord can increase the statutory rent to match the rent on the sub-let part. The principle being that tenants who enjoy low rents by statutory protection, should not be allowed to profit by sub-letting. The Act will not apply to dwellings which are vacant on the commencement date of this Bill. Such dwellings will thus be

decontrolled. Any dwellings which become vacant in the future can also be decontrolled on application to the Rent Assessor, provided certain refurbishment works specified in the Bill are first carried out. Existing tenants retain the succession right and repeal part of the existing Act. The second successor will pay rent as per the old section 15 tenancies. However, new future tenancies will enjoy only one succession. Corporate landlords must make a reasonable financial provision in their accounts out of rental income for future repairs and maintenance. The Bill provides a right of appeal against all decisions of the Rent Assessor. Appeals will be for the new Housing Tribunal and thereafter to the courts.

The Housing Tribunal will have functions in respect of both public and private housing. In respect of Government housing, the Bill gives tenants and housing applicants a right, for the first time ever, to appeal against any and every decision of the Ministry for Housing, the Principal Housing Officer or the Housing Allocation Committee. In private housing, the Tribunal will have function under the landlord and tenant provisions, relating both to the setting of rents and appeals. The Government are determined to combat anti-social behaviour by introducing legislation with as wide powers as possible, to deal with and reduce such unacceptable behaviour. The Government have seen fit to extend the regime to all housing areas in Gibraltar. In due course I shall be laying on the table regulations aimed at combating such undesirable behaviour. Anti-social behaviour is defined in the Bill as any behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, loss, alarm, distress, fear or annoyance to any reasonable person living, working or otherwise lawfully in or in the vicinity of a housing area. Or any behaviour which disrupts peace and good order in or near a housing area, including but not limited to violence, threats, intimidation, coercion, harassment or serious obstruction of any person. There is also an element of the definition that extends to vandalism, unhygienic and also to unsafe behaviour. Finally, and in order that all Gibraltar's housing legislation should be in one Act of Parliament, existing legislation on property

management is transferred into this new Act as Part 5. On enactment the Bill will repeal the present Housing Special Powers Act, which deals with public housing; Part 3 of the Landlord and Tenant Act which deals with private housing and the Consumer Protection (Property Management) Act.

I have given notice in writing for a number of minor amendments to be taken during Committee Stage. There are two amendments that I would like to comment further on as a means of clarification. There is an amendment to clause 31, and this is to be seen in connection with an amendment to Schedule 3. As a result of amendments to Schedule 3, that deals with the recognition and constitution of tenants associations, paragraphs 1 and 2 of the Schedule have migrated to section 31, as a matter of direction of where those paragraphs have gone, as has also the paragraphs in the Schedule dealing with the constitution of these associations. The amendment, therefore, is to the effect really that the Minister may by regulations make provision relating to the constitution and proceedings of a tenants association. The regulations when made will probably not differ much from the Schedule, that is the main change as it stands now. Except that different tenants associations have different needs and requirements as to the practicalities involved in running their associations, and Government believe that regulations will allow greater flexibility in the implementation of these things. The second explanation that I wanted to make, refers to an amendment to clause 40, which is to do with which dwellings this part of the Act, which is the old Landlord and Tenants part, applies to. The thrust of the Bill generally in this respect is towards decontrolling. This amendment is in consonance with this principle. Therefore, clause 9 is widened to include the case of, for example, a pre-War property that is occupied by the owner and it has never been controlled, if in future at some point the tenant, rather the owner or the family, wish to let it or sell it, it should not be subject to statutory control. That is the thrust of that amendment, I thought I should make it clear at that point. I commend the Bill to the House.

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

HON C A BRUZON:

I appreciate that a lot of work, I am sure, has been done behind the scenes to prepare this fairly lengthy piece of legislation, and I do recognise that there are a number of points that we agree with. However, there are some substantial issues that go contrary to our policy and our philosophy regarding housing. Regrettably, we will not be able to support the Bill. Should the people of Gibraltar put us into Government, we will repeal the Act, which I am sure will be passed through Government majority, and then we will introduce and present to Parliament our own Housing Act.

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

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 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.

COMMITTEE STAGE

HON CHIEF MINISTER:

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

The Interpretation and General Clauses (Amendment) Bill 2007;

The Oil in Territorial Waters (Amendment) Bill 2007;

The Consumer Protection (EU Cooperation) Bill 2007;

The Landfill (Amendment) Bill 2007;

The Housing Bill 2007.

**THE INTERPRETATION AND GENERAL CLAUSES
(AMENDMENT) BILL 2007**

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

Clause 2

HON CHIEF MINISTER:

In clause 2 I have given notice of an amendment. Clause 2(9) of the Bill, which amends section 36 of the interpretation of the Act, should be amended by inserting after paragraph (ii) the following additional paragraph (iii). If I can explain it to the hon Members more easily by reference to the principal Act. In clause 2(9) of the Bill it is proposed that three amendments be introduced to section 36. One of them is substituting for the word "Act" substitute the word "UK Acts" in the section heading. The other is in the substantive section, that is in the main body

of the section, the first, third and fourth time the word “Act “ appears in that section, substitute “UK Act”. It is now proposed that for the words, as the third amendment to section 36, it is proposed that for the words “by any Act or Order in Council or Act any Act is extended or applies”, that those words shall be deleted and substituted by the words “any UK Act applies”. So that section 36 would now read, “whenever any UK Act applies to Gibraltar, such UK Act shall be read et cetera.” Then clause 2(11) of the Bill, which amends section 38 of the principal Act, that clause 2(11) be amended by relettering paragraph (c) as paragraph (d). After paragraph (b) insert a new paragraph “(c) in subsection (1) after the words “Order in Council” in the first line, insert the words “that applies to Gibraltar””. So that section 38 of the principal Act would read, if this amendment is carried, “any UK Act or Order in Council that applies to Gibraltar shall be interpreted” et cetera. Then in consequence of that, after the new paragraph (d), insert a new “(e) in subsection (2) after the words “Order in Council” insert the words “that apply to Gibraltar”.” So it is the same amendment in subsection (2) as in subsection (1) of section 38 of the principal Act. Further, in clause 2 of the Bill, relating to clause 2(15) of the Bill which amends section 44 of the principal Act, the Bill at clause 2(15) should be amended by inserting after paragraph (b) a new (c) in the following terms. “In subsection (2), after the second reference to subsection (1), insert “that it may have so added”.” The effect of that amendment is that sub-clause (2) of the principal Act would then read, “the Government may by Order published in the Gazette, add any public officer to those specified in subsection (1), as empowered to depute and the provisions thereof shall apply to such public officers and may, in the like manner, delete the designation of any public officer from subsection (1), that it may have so added.” In other words, it makes it clear that the Government can only delete the substitute of any officer whose power the Government themselves designated to have a substitute. So it is a narrowing amendment rather than a widening amendment.

MR CHAIRMAN:

May I invite the hon Members to look at clause 2(2)(j), I think Her Majesty would be pleased if the “h” was a capital “H”. I take it as agreed?

HON CHIEF MINISTER:

Well, yes, we certainly all wish to please Her Majesty.

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 OIL IN TERRITORIAL WATERS (AMENDMENT) BILL
2007**

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

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

**THE CONSUMER PROTECTION (EU COOPERATION) BILL
2007**

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

Clause 4

HON DR B A LINARES:

In clause 4(1), the last line reads “as may be appropriate pursuant to Article 46(a) to (g)”. That should read, “to Article 4(6)”. In other words, it is Article 4 paragraph (6) of the

Regulation. In 4(2), it is wrong, “the Justice of the Peace may issue an order pursuant to subsection (1) where” and we should insert there, “he reasonably suspects” et cetera.

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

Clauses 5 to 9 – were agreed to and stood part of the Bill.

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

THE LANDFILL (AMENDMENT) BILL 2007

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

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

THE HOUSING BILL 2007

Clauses 1 to 27 – stood part of the Bill.

Clause 28

HON C BELTRAN:

In the heading of clause 28, the word and comma “enforcement,” to be deleted.

Clause 28, as amended, stood part of the Bill.

Clauses 29 and 30 – stood part of the Bill.

Clause 31

HON C BELTRAN:

Clause 31 is amended as follows. Sub-clause (2) is deleted and substituted with the following:- “The Housing Authority shall recognise a tenants association that has been established in accordance with the requirements of this section and shall recognise only one tenants association as representative of a housing area.” In clause 31(4), the deletion of the comma and the words “, constitution and proceedings”. After clause 31(4), the insertion of the following:- “The Minister may by Regulations make provision relating to the constitution and proceedings of a tenants association to which this section applies”.

Clause 31, as amended, stood part of the Bill.

Clause 32 – stood part of the Bill.

Clause 33

HON C BELTRAN:

In clause 33(1), the word “house” to be deleted from the definition of “rateable value”.

Clause 33, as amended, stood part of the Bill.

Clause 34

HON C BELTRAN:

In clause 34(1)(c), insert an opening bracket before the word “Accommodation”.

Clause 34, as amended, stood part of the Bill.

Clauses 35 to 39 – stood part of the Bill.

Clause 40

HON C BELTRAN:

In sub-clause (1)(b), delete the words and the comma “whenever it is so let.”. Sub-clause (9) is deleted and substituted with the following:

“This Part shall not apply to a dwelling –

- (a) which upon the coming into effect of this Act is vacant;
- (b) which upon the coming into effect of this Act was in the occupation of the beneficial owner thereof or where there is more than one beneficial owner, was in the occupation of one of them; or
- (c) which has never been the subject of a tenancy to which the former Act applied.”

Clause 40, as amended, stood part of the Bill.

Clause 41

HON C BELTRAN:

In sub-clause (7) the word “house” to be deleted. Sub-clause (11) is amended as follows:

- (i) after the words “shall be” in the fourth line, insert the words “the higher of”; and
- (ii) after the words and figure “Schedule 4” insert “or the actual rent being paid at the commencement of this Act”.

Clause 41, as amended, stood part of the Bill.

Clauses 42 to 48 – stood part of the Bill.

Clause 49

HON C BELTRAN:

Clause 49(1)(b) is amended by inserting a comma after the word “condition” and by deleting the word “and”.

Clause 49, as amended, stood part of the Bill.

Clauses 50 to 113- stood part of the Bill.

Schedules 1 and 2 – stood part of the Bill.

Schedule 3

HON C BELTRAN:

Schedule 3 is amended as follows. Delete the heading “Recognition” and subparagraphs (1) and (2), and delete the heading “Constitution” and the wording thereafter, including subparagraphs (a) to (h).

Schedule 3, as amended, stood part of the Bill.

Schedules 4 to 8 – stood part of the Bill.

Schedule 9

HON C BELTRAN:

Schedule 9 is amended by deleting the full stop after paragraph 1(1)(g), and replacing with a semi-colon and by inserting the following after paragraph 1(1)(g):

“(h) two persons appointed by the Minister representing the interests of private tenants.”

Schedule 9, as amended, stood part of the Bill.

Schedule 10

HON C BELTRAN:

In paragraph 1(3) of Schedule 10, the word “Tribunal” to be substituted for the word “Council”.

Finally, on enactment and publication of the Act, a consequential amendment to the heading of clause 28 in the arrangement of sections will be made, by deleting the word and comma “enforcement,”.

Schedule 10, as amended, stood part of the Bill.

The Long Title – stood part of the Bill.

THIRD READING

HON CHIEF MINISTER:

I have the honour to report that:

The Interpretation and General Clauses (Amendment) Bill 2007, with amendments;

The Oil in Territorial Waters (Amendment) Bill 2007;

The Consumer Protection (EU Cooperation) Bill 2007, with amendments;

The Landfill (Amendment) Bill 2007;

The Housing Bill 2007, with amendments;

have been considered in Committee and agreed to with or without amendments and I now move that they be read a third time and passed.

Question put.

The Interpretation and General Clauses (Amendment) Bill 2007;

The Oil in Territorial Waters (Amendment) Bill 2007;

The Consumer Protection (EU Cooperation) Bill 2007;

The Landfill (Amendment) Bill 2007

were agreed to and read a third time and passed.

The Housing Bill 2007

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

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 Bill was read a third time and passed.

PRIVATE MEMBERS' MOTION

HON J J BOSSANO:

I beg to move the motion of which I have given notice, which reads:

“This House:

- (a) welcomes that the Chairperson of the Committee of 24 has written to the United Kingdom Government asking that they facilitate a visiting mission by the Committee of 24 to Gibraltar;
- (b) reaffirms the position adopted on this issue in a motion of this House dated 24 June 2003;
- (c) urges the Government of the United Kingdom to reply to the Committee of 24 without further delay stating that the United Kingdom will facilitate a visiting mission by the Committee to Gibraltar.”

Mr Speaker, what prompted me to give notice of this motion was, in fact, the statement made to the local media by the Chairperson herself, that the ball was in the United Kingdom's court, because in fact, the UK had been asked to give the green light to a visiting mission. In fact, the United Kingdom has, in meetings previously, when Spain objected both at the UN and at seminars, said that they had no objection to visiting missions to any of their territories, without specifically highlighting Gibraltar but not excluding Gibraltar. Prior to that, the problem has

always been, certainly in the time that I was in Government, pinning down either one or the other. In that the Committee of 24 argued that they could not visit a territory without the cooperation of the administering power, and the administering power argued that the Committee of 24 was always saying they wanted to visit but never actually formally asked to come. So, it was an advance on that position when the UK representative in the UN said that the UK did not object to any of the territories being visited, at a time when Spain were saying they could not visit Gibraltar because there was a sovereignty dispute. Now that we have got possibly what is the Chair of the Committee of 24 that has shown, in my recollection, the greatest level of sympathy for our arguments and our case, there have been others that have been more or less sympathetic over the years, but I think the new Chairperson has shown, both in the seminar and in New York, that she believes we are right, she believes the people in the Falklands are right, and she believes, as we do and as we believe to be the correct position in international law, that it is not possible to deny the right of self-determination to a people that are accepted and acknowledged and considered to be the people in a territory awaiting decolonisation. Regrettably, in the last 24 hours according to the Spanish media, the position that the seminar took of not repeating its recommendation to the Committee of 24 in excluding the right of self-determination from territories that were subject to sovereignty dispute, that is, excluding it to the extent that it was the only applicable principle, as if there were more than one in cases where there are disputes, that seems not to have got through the Committee of 24 in New York, to which the matter was referred for a final decision. This indicates the degree of influence that Spain can exercise in New York where it is clearly lobbying 52 weeks a year, as opposed to the one week we are there in June and again in October. So, although we have got no evidence in fact that the letter has gone, I thought it was too good an opportunity to miss that we should, in fact, test the reality of this request, because of course, the Chairperson could only have written in the name of the Committee. So it would mean that she would have had to have the support of the Committee for the request to have been

made for a visiting mission to have been facilitated. Since it already is the unanimous policy of this Parliament, both because we carried a motion to that effect in 2003, and because, before and since, we have repeatedly made clear how welcome a visiting mission of the UN Committee would be, for the very same reason that Spain does not want them to come. I have no doubt that if Spain thought that by coming here they would be convinced that we should be handed over to them, they would be the ones shouting for the visit to happen. So, I hope there will be no problem in carrying the motion and seeing what reaction we get from the UK. I commend the motion to the House.

Question proposed.

HON CHIEF MINISTER:

Well, I regret, even though I agree with everything the Leader of the Opposition has said, that there is a reason why we should not pass the motion in these terms. That is that I am informed by the United Kingdom Government, that it is not the case that they have been written to by the Chair. What appears to have happened is that the suggestion was made informally in a conversation, but I realise that the Leader of the Opposition has taken his cue from where it was reported somewhere, I do not remember but I saw this too. Well, the United Kingdom assure me that no such letter has been received. Of course, I agree with everything that the motion contains, because as the Leader of the Opposition knows, almost every year I extend this invitation since I have been Chief Minister, as indeed, he had before me when he was Chief Minister. So, my suggestion to the Leader of the Opposition is that we just tweak with the language of this so that it is a little bit more neutral about the mechanics of the request. Of course, we know what she has said, I know what the United Kingdom have said, we are not underwriting either statements. Can I suggest to the Leader of the Opposition, therefore, that his motion might be amended to read: "Welcomes that the Chairperson of the Committee of 24

has (instead of written we write) informally suggested to the United Kingdom", delete the word "asking" so that it reads, "Welcomes that the Chairperson of the Committee of 24 has informally suggested to the United Kingdom that they facilitate a visiting mission by the Committee of 24 to Gibraltar". (b) should obviously stay as it is and then (c) we should urge the Government of the United Kingdom to reply to the Committee of 24. Perhaps we should delete the words "without further delay", given that in the absence of a letter I am not so sure that an oral suggestion requires a response. But if we were to delete "without further delay", it could stay as it is, because even if the suggestion has been made orally and informally, the United Kingdom can still be urged to reply stating that the United Kingdom will facilitate a visiting mission to Gibraltar. I think those amendments enable, or rather protect this motion, from being rubbished or ignored on the basis that it is based on false factual premise.

HON J J BOSSANO:

I welcome the information that the Chief Minister has been able to bring, which was something I did not know, and I think it makes a lot of sense that we remove anything that can be used to, in fact, say it is based on a false premise and therefore does not require action by the UK. So I am quite happy if it is accepted that it can be read on the basis suggested. But if it is required that I move an amendment, or the Government move the amendment, then I can do it.

HON CHIEF MINISTER:

I am happy to propose the amendment. Simply that the word "written" should be replaced with the words "informally suggested". That the word "asking" should be removed and that the words "without further delay" should be removed from (c). One more point I wanted to make. Furthermore, my understanding is that what would otherwise be a natural

inference, that the suggestion has been made with the support, in the name of and therefore with the support of the Special Committee, my understanding is that that may in fact not be the case. But, I think the Chairman is the Chairman and we are entitled to proceed on that basis.

Question put.

The amended motion was carried unanimously.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House sine die.

Question put.

Agreed to.

The adjournment of the House was taken at 4.27 p.m. on Friday 29th June 2007.

**REPORT OF THE PROCEEDINGS OF THE GIBRALTAR
PARLIAMENT**

The Second Meeting of the Eleventh Parliament held in the Parliament Chamber on Wednesday 5th December 2007, at 3.00 p.m.

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 Enterprise, Development and
Technology and Deputy Chief Minister
The Hon Lt-Col E M Britto OBE, ED – Minister for the
Environment, Traffic and Transport
The Hon F J Vinet – Minister for Housing
The Hon J J Netto – Minister for Family, Youth and Community
Affairs
The Hon Mrs Y Del Agua – Minister for Health and Civil
Protection
The Hon D A Feetham – Minister for Justice
The Hon L Montiel – Minister for Employment, Labour and
Industrial Relations
The Hon C G Beltran – Minister for Education and Training
The Hon E J Reyes – Minister for Culture, Heritage, Sport and
Leisure

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon F R Picardo
The Hon Dr J J Garcia
The Hon G H Licudi
The Hon C A Bruzon
The Hon N F Costa
The Hon S E Linares

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on 26th February 2007, were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

HON CHIEF MINISTER:

Mr Speaker, in rising to lay documents on the Table can I once again take this opportunity to welcome to this the first working meeting of the House all new Members on both sides, and I do so not just as Leader of the Government but indeed as Leader of the House. We look forward to democratic interaction with the new Members on the other side of the House as I hope they do with the new Members on this side of the House. That said, I have the honour to lay on the Table the following:

1. Consolidated Fund Reallocations - Statement No. 3 of 2006/2007;
2. Consolidated Fund Pay Settlements - Statement No. 4 of 2006/2007;
3. Consolidated Fund Supplementary Funding - Statement No. 5 of 2006/2007;
4. Improvement and Development Fund Reallocations - Statement No. 1 of 2006/2007;
5. Report and Audited Accounts of the Gibraltar Regulatory Authority for the year ended 31 March 2007;
6. Report and Audited Accounts of the Gibraltar Broadcasting Corporation for the year ended 31 March 2005.

Ordered to lie.

ANSWER TO QUESTIONS

The House recessed at 5.35 p.m.

The House resumed at 6.00 p.m.

Answers to Questions continued.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 6th December 2007, at 9.30 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 6.55 p.m. on Wednesday 5th December 2007.

THURSDAY 6TH DECEMBER 2007

The House resumed at 9.35 a.m.

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 Enterprise, Development and Technology and Deputy Chief Minister
 The Hon Lt-Col E M Britto OBE, ED – Minister for the Environment, Traffic and Transport
 The Hon F J Vinet – Minister for Housing
 The Hon J J Netto – Minister for Family, Youth and Community Affairs
 The Hon Mrs Y Del Agua – Minister for Health and Civil Protection
 The Hon D A Feetham – Minister for Justice
 The Hon L Montiel – Minister for Employment, Labour and Industrial Relations
 The Hon C G Beltran – Minister for Education and Training
 The Hon E J Reyes – Minister for Culture, Heritage, Sport and Leisure

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon F R Picardo
The Hon Dr J J Garcia
The Hon G H Licudi
The Hon C A Bruzon
The Hon N F Costa
The Hon S E Linares

ABSENT:

The Hon J J Holliday – Minister for Enterprise, Development and
Technology and Deputy Chief Minister
The Hon F J Vinet – Minister for Housing

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

ANSWERS TO QUESTIONS (CONTINUED)

The House recessed at 1.00 p.m.

The House resumed at 2.35 p.m.

Answers to Questions continued.

The House recessed at 5.45 p.m.

The House resumed at 6.10 p.m.

Answers to Questions continued.

SUSPENSION OF STANDING ORDERS

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with Government motions.

Question put. Agreed to.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, there is no requirement under the Rules for this motion to be taken today because it is the Permanent Select Committee on Members' interests.

CERTIFICATION FOR BILLS REQUIRING URGENT CONSIDERATION

HON CHIEF MINISTER:

Some Members may be aware because I have informed the Leader of the Opposition, that I have issued the first and, hopefully continuing exceptional certificate in respect of one piece of legislation, which I do not think is going to be in any sense controversial between us. I think getting it through just protects Gibraltar from comment by others, and I would like to take it on this date which gives them the usual seven days that they would have had under the old system. The Leader of the Opposition knows that I regard this as being a very exceptional thing, really to be done only when the interests of Gibraltar, as opposed to the Government's own policy interests, require. In those circumstances, I hope the House will not object to proceeding on that basis.

HON J J BOSSANO:

I can confirm we have been told about the reasons for doing it and we are supporting it.

HON CHIEF MINISTER:

Obliged.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Friday 14th December 2007, at 10.00 a.m.

Question put. Agreed to.

The adjournment of the House was taken at 9.00 p.m. on Thursday 6th December 2007.

FRIDAY 14TH DECEMBER 2007

The House resumed at 10.00 a.m.

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 Enterprise, Development and Technology and Deputy Chief Minister
The Hon Lt-Col E M Britto OBE, ED – Minister for the Environment, Traffic and Transport
The Hon F J Vinet – Minister for Housing
The Hon J J Netto – Minister for Family, Youth and Community Affairs
The Hon Mrs Y Del Agua – Minister for Health and Civil Protection
The Hon D A Feetham – Minister for Justice
The Hon L Montiel – Minister for Employment, Labour and Industrial Relations
The Hon C G Beltran – Minister for Education and Training
The Hon E J Reyes – Minister for Culture, Heritage, Sport and Leisure

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon F R Picardo
The Hon Dr J J Garcia
The Hon G H Licudi
The Hon C A Bruzon
The Hon N F Costa
The Hon S E Linares

ABSENT:

The Hon Lt-Col E M Britto OBE, ED - Minister for the Environment, Traffic and Transport

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

MOTIONS

HON CHIEF MINISTER:

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

“That this House resolves that the following Members should be nominated to the Permanent Select Committee on Members’ Interests:-

The Hon Lt-Col E M Britto OBE, ED

The Hon J J Netto

The Hon C A Bruzon

The Hon S E Linares”

Mr Speaker, it is standard procedure after a General Election to move a motion nominating Members of the Permanent Select Committee on Members’ Interests, I do not think that there is any need for me to say anything in support of this motion. These are the Members that each side of the House has nominated and, therefore, I assume that the motion will be supported by all sides. I commend the motion to the House.

Question proposed.

Question put. The House voted.

The motion was carried unanimously.

HON CHIEF MINISTER:

(2) Mr Speaker, I beg to move a motion standing in my name and which reads that:

“This House approves the Pensions (Amendment) Regulations 2007 which shall have retrospective effect to 1st January 2001, pursuant to section 3 of the Pensions Act.”

Mr Speaker, section 3(3) of the Pensions Act says, “whenever the Government is satisfied that it is equitable that any regulation made under this section should have retrospective effect, in order to confer a benefit upon, or remove a disability attaching to any person, that regulation may be given retrospective effect for that purpose”. However, it then goes on to add a proviso, “provided that no such regulation shall have retrospective effect, unless it has received before being made the approval of the Parliament signified by Resolution.” In other words, it is the retrospective element that the House will be approving if it approves this motion. By way of some background, the Pensions (Amendment) Regulations 2001 provided for the industrial employees of the Government to receive the same pension and gratuity as non-industrials on retirement, on or after the age of 60. This was the initial step taken towards the equalisation of pensions benefit between industrial and non-industrial employees of the Government. Obviously, we are in the realms of occupational pensions here not old age pension. This was followed by the Pensions (Amendment) Regulations 2002, which purported to equalise the pension benefits payable in circumstances where an industrial employee retires prior to the age of 60 or dies in service. However, there was a problem with the wording of the 2002 amendment, as it did not clearly identify industrial employees and did not cover all of the numerous provisions in the Pensions Act and Pensions Regulations. For example, retirement on medical grounds, there was an assumption in the original drafting that this retirement would always be by reaching the age. There are other grounds in the Pensions Act which could lead to somebody’s retirement, and the equalisation provisions had not been framed to cover those other grounds. The purpose of these Regulations before the House is to regularise the position and to give industrials the right to receive a pension that is equivalent to that of their non-industrial counterparts, in

those circumstances that have not been covered by the original regulation. The point of retrospection will have struck the hon Members as obvious, and that is the date to which the 2001 Regulation applied because, in fact, individuals had been allowed to benefit before the defect in the drafting had been noticed. The administration had allowed a few cases to go through and it was, in fact, the Principal Auditor that noticed the language of the Regulation, so we are correcting it retrospectively to provide cover for that half a dozen or so cases that have gone through. I commend the motion to the House.

Question proposed.

HON G H LICUDI:

Mr Speaker, the Hon Chief Minister has moved a motion which refers to retrospection to 2001 and which provides that this House will approve the Pensions (Amendment) Regulations 2007. The Regulations which are referred to in the motion are the Pensions (Amendment) Regulations 2007, which as far as we can see from the Regulations themselves, make no mention of the date of 2001, they talk of coming into effect and deemed to come into operation on 1st July 2007. In fact, when we saw this motion we were somewhat perplexed by the reference to 1st January 2001, we could not understand what that referred to. But the Chief Minister has now explained it is in relation to an anomaly which arose in respect of that particular date, but we do not see that reflected in the Regulations themselves. The Regulations which are attached in this motion, only refer to retrospection to 1st July 2007. We would be grateful if the Chief Minister would clarify the position on that. There is a second point, although I should say that we support what the Government are trying to achieve in this matter. We are not sure whether the Government with these particular Regulations actually achieve what they are trying to do. In the Pensions (Amendment) Regulations 2007, which are the ones referred to in this particular motion, these were actually published by Notice in the Gazette last week, Legal Notice No. 129 of 2007. So

these Regulations had actually been made already, they appeared in the Gazette last week, dated 6th December 2007. As the Chief Minister has pointed out, under section 3 of the Pensions Act, there is a requirement, where regulations are to have retrospective effect, to have prior approval of this House before the Regulations are made. These Regulations appear to have been made before the approval was given. We would ask the Government to see how that is going to be corrected. We had assumed, in fact, this was going to be corrected with a further motion that stands in the name of the Chief Minister, to which I will not speak now, but which we thought addressed these procedural issues. There is another motion in the name of the Chief Minister, in which he seeks the approval of this House for the Pensions (Amendment) (No. 2) Regulations and those Regulations which are in draft and can be approved before being made, which is the proper procedure, provide that Legal Notice No. 129 of 2007 shall have no effect. So it is difficult to understand how we are required to approve a particular set of Regulations when there is another motion before this House which actually says, in the Regulations which are to be approved, that these particular Regulations will have no effect. So we would ask the Chief Minister to clarify these positions and whether it is intended to proceed with the Pensions (Amendment) Regulations 2007, or simply to put those to one side, that those should have no effect and we proceed with the proper ones which are in the other motion referred to as the Pensions (Amendment) (No. 2) Regulations.

HON CHIEF MINISTER:

Mr Speaker, the clarification is very simple, and it is that the hon Member has got his facts wrong again, rather like his confusion of Transport Lane and Transport Road at Question Time. We are debating here Pensions (Amendment) Regulations 2007 and not the (No. 2) Regulations 2007. The Pensions (Amendment) Regulations 2007, indeed has a statement in it which says "these Regulations may be cited as the Pensions (Amendment) Regulations 2007 and shall be applied from 1st January 2001".

These Regulations have not been commenced, so both his points are wrong and derive from the fact that he has simply confused one set of Regulations from the other. The other Regulations do not deal with the same subject matter. The other Regulations, he has obviously not read and/or understood them, deal with the question of breaks in service for Civil Service pensioners. These Regulations do not deal with that issue at all. Therefore, the clarification that the hon Member seeks is simple. He has simply confused one set of Regulations with the other, we are currently on a motion that deals with the Pensions (Amendment) Regulations 2007, dealing with pensions for non-pensionable officers. The copy of the Regulations attached to the motion are in draft and have not been promulgated, they clearly refer to the pensions for non-pensionable officers, they are undated and regulation 1 says, that these Regulations may be cited as the Pensions (Amendment) Regulations 2007 and shall be applied from 1st January 2001. So, last minute ill-researched points, whilst I am perfectly happy to give the hon Member the benefit of inexperience of the business of this House, I am happy to offer him that obvious clarification.

HON G H LICUDI:

If the Chief Minister will give way before ending his reply.

MR SPEAKER:

I think he has ended the reply.

Question put. The House voted.

The motion was carried unanimously.

HON CHIEF MINISTER:

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

“This House approves the Pensions (Amendment) (No. 2) Regulations 2007 which shall have retrospective effect to 1st July 2007, pursuant to section 3 of the Pensions Act.”

These Regulations provide for the increase in existing pensions payable to all retired Civil Servants under the Pensions Act, taking account of all periods of public service irrespective of any breaks in service. This increase will have retrospective effect to 1st July 2007. The reason for that, as hon Members will recall, is that I announced this as a Budget measure last year and that the Budget measures start xxxxxx. That is the reason for the 2007 retrospection. In days gone by, Civil Servants who gave up work for a while or wished to become part-timers, were obliged to resign. In the latter case, many resigned as full-timers on a Friday, only to be re-engaged as part-timers on the next Monday. The resulting break in service, which was sometime over the weekend that they would not have worked anyway, resulted in the earlier period of service not being counted towards pensionable service. Many of the affected persons were women who wished to stop or reduce work hours in order to raise a family. These Regulations also provide for Civil Servants who retire with effect from 1st July 2007, that is retirement having served the minimum prescribed continuous service of ten years, to have all previous periods of employment in the Civil Service, recognised for the purposes of pension entitlement. Account will be taken of the gratuity which has already been paid to such people, for prior periods of service together with interest thereon in arriving at the revised pension. In other words, they will not pocket the gratuity that they have already received, that will be deducted with interest from their future pensions increase. The full amount of the revised increased pensions will be payable as a pension and no part of the increase will be payable as a gratuity. Finally, I would draw

Members' attention to regulation 5, which says that for the avoidance of doubt Legal Notice No. 129 of 2007 has no effect. The reason for this is that these Regulations were inadvertently published in the Gazette before being approved by the House. In other words, the section requires that the approval of this House should be before and not after. By administrative error, these Regulations were sent to the Gazette and published, so we have revoked them. Once the House approves this motion, a new Regulation will be published post rather than pre approval in this House, assuming that we approve the motion. Mr Speaker, I think that both sides of the House will welcome the correction of this, I think, historical anomaly in the pensions entitlement of these public officers, and that we will have unanimity in this House on this motion, which I commend to it.

Question proposed.

HON G H LICUDI:

Mr Speaker, we certainly welcome the introduction of these Regulations and we agree that this corrects a long-standing anomaly. Therefore we will be voting in favour. The only point that would be made is that we reserve our position generally, because we are not sure whether these Regulations go far enough in correcting all possible anomalies which might exist as a result of break in service. We note, for example, that under regulation 4 the uprated pensions for existing pensioners applies to those people in receipt of a pension. There may be people, for example, we do not know that is why we are reserving the position, whether there is anybody in a category who has retired but is not actually in receipt of a pension but would have been in receipt of pension had the break in service counted for the totality of the service. Therefore, there may be other categories of people who would not have the full benefit. We do not know whether such people exist or not and we reserve the position generally. Finally, as regards regulation 5 which the Chief Minister has pointed to, this indeed refers to Legal Notice No. 129 of 2007, which I referred to earlier on. The Legal Notice

which was published last week actually talks of the Pensions (Amendment) Regulations 2007, we now see that this has been revoked and is of no effect and we certainly welcome that, because that was, as we have heard, an inadvertent mistake. Therefore, we support the motion.

HON CHIEF MINISTER:

Yes, I mis-spoke when I said revoked. We have not actually revoked because they are of no effect. So what we have said is that for the avoidance of doubt, Legal Notice No. 129 of 2007 has no effect. Revoked suggests that they were valid in the first place, of course, being that they were *ultra vires*, the enabling Act. The hon Member raises two points. It is not the case that these Regulations only apply to people who are already in receipt of a pension. It also applies to people who have not yet retired and are therefore not already in receipt of a pension. But he is right, and the regulation clearly says so, that it does not apply to people who did not have, one has got to have ten years service in the second stint. There may be some people who had ten years service in the first stint, the hon Member may not know or he may but he may not, that in the Civil Service one is not entitled to an occupational pension unless one does ten years service minimum. So if anybody leaves the Service after nine years service, for example, he earns no pension. The regulation is, as a matter of policy, framed around the principle which appears by regulation. Let me see if I can point to the actual, yes, by the words "and who qualifies for a pension having served the prescribed minimum continuous period of retirement". One has got to be an eligible pensioner in respect of one's stint immediately before retirement. Let us call it the second stint. If one is qualified for a pension by virtue of the second stint, one may then tag onto it the first stint. What one cannot do is qualify for the ten year rule by adding both stints together, because that would entitle to a pension many people who have served very short stints on either side, almost at opposite ends of their lives, and it is very difficult to calculate what the cost to the public purse would be on that. So, it has

been especially formulated for this reason, the hon Member will no doubt make a point of this, listed on his points of possible content for his manifesto. Before he does so, I would urge him to consider the cost of that, there are lots of people, perhaps that is why he may want to do it. Anyway, he should not think that that is an oversight, that is a matter of Government policy.

Question put. The House voted.

The motion was carried unanimously.

HON CHIEF MINISTER:

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

“This House resolves in accordance with section 18 of the Social Security (Non-Contributory Benefits and Unemployment Insurance) Act that the Government proceed with the making of the Social Security (Non-Contributory Benefits and Unemployment Insurance) (Amendment of Schedule 3) Order 2007.”

Mr Speaker, section 18(3) of the Social Security (Non-Contributory Benefits and Unemployment Insurance) Act says that no order shall be made under section 18 unless it has been approved by Resolution of the Parliament. The House has before it a draft Order entitled, as I have just read out, (Amendment of Schedule 3) Order 2007. This Order increases the rates of unemployment benefit by ten per cent, as announced during the Budget session just before the summer. It has retrospection to 1st July, like all the other Budget measures that we are dealing with, and I commend the motion to the House. In short, therefore, the Act requires this House to approve any increase in these benefits, and it is now doing so and doing so retrospectively.

Question proposed.

HON J J BOSSANO:

Can I just ask? Given that this is retrospective and it is unemployment benefit, presumably the Department will contact the people, because most people who have been unemployed are unlikely to know that this is happening.

HON CHIEF MINISTER:

Yes indeed, there will be arrears payable as tends to happen with many. In the UK they follow a different practice. In the UK when the Chancellor makes a Budget announcement, it normally has a forward application date, precisely to allow the administration time and legislative time to take any steps. Here, we have always tended to do it in the reverse, and that is that Budget measures are usually given with effect from the date of announcement, or some approximate date. But then it does not put us in the position of having to apply it retrospectively, which is administratively burdensome, but yes, that is precisely what will happen as he says.

Question put. The House voted.

The motion was carried unanimously.

SUSPENSION OF STANDING ORDERS

HON CHIEF MINISTER:

Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1), in order to proceed with the laying of a document on the Table.

Question put. Agreed to.

DOCUMENTS LAID

HON CHIEF MINISTER:

I have the honour to lay on the Table the Gibraltar Annual Policing Plan 2007-2008, which is the first new plan to be laid. Now, clearly this year's Police Plan, which is not raised by the Government but is sent to the Government for laying in the House, is much later on during the year than the Act envisages. I would urge hon Members to take into account the fact that this is the result of the implementation of the Act, which came into effect at a time when really the policing year had already begun and there was really no opportunity to prepare a policing plan. But the Act itself contains a timetable, which I am assured by the Police Authority, will be followed for what will be the second plan. But we could not even say to them, well do not bother with the policing plan this year, given that it has all come in halfway through the year, because the Act actually says there shall be a policing plan and it shall be laid in the House. So albeit late, I think the view has rightly been taken that better put one in albeit late than not put one in and be in breach of the section that does not allow. In retrospect, the Act might have had a transitional clause in it to deal with the point that the timetables just did not work between commencement, appointment of the authority and their obligations in relation to the timetable to preparing a policing plan for the year.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

THE CRIMINAL JUSTICE (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Criminal Justice Act 1995 to partly transpose into the law of Gibraltar Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, and to fully transpose into the law of Gibraltar Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis, 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, in accordance with section 35(3) of the Constitution, I have certified that consideration of this Bill by Parliament should be undertaken before the expiry of six weeks from the date of its publication. The power to abridge time is exercisable where, to quote the Constitution, "consideration of the Bill is too urgent to permit such a delay". I should say some

words by way of background information. Through the Finance Centre Department, a committee was established in November 2006 to consider the issues that could arise for the Finance Centre and other parts of the economy of Gibraltar, as a result of the requirements of the Directive. The committee was tasked with the consideration of the Directive and following from that, to advise the Government of any particular issues to which it should direct its mind. I am informed that representatives from a number of entities were asked to send a representative to form the committee. These included, the General Council of the Bar of Gibraltar, the Gibraltar Association of Compliance Officers, the Gibraltar Bankers Association, the Gibraltar Society of Chartered and Certified Accountancy Bodies, the Financial Services Commission, the Gibraltar Regulatory Authority and the Gibraltar Financial Intelligence Unit. The Attorney General's Chambers, the Finance Centre Department and the Legislation Support Unit, were the Government Departments involved. The committee first met on 7th December 2006 and again on 21st December 2006. Subsequent meetings on 16th April, 24th May and 11th October 2007, when the committee met for the last time. A final draft of transposing legislation was sent to me as Minister for my approval on 23rd November. I have given the unnecessary opportunity for damaging comment that late transposition of a Directive on money laundering, which is a sensitive subject in Europe these days, would give Gibraltar's detractors. I am satisfied that the reputational risks to Gibraltar outweigh the reasons for this House having more rather than less time to consider this Act. On this occasion, therefore, I have given the certificate. I have said to the House in the past, that although the constitutional phrase that I read out a moment ago, actually gives quite a lot of latitude, it is my intention to exercise it as sparingly as possible, because I believe that it is right that the legislative process in Gibraltar should take longer than seven days, and that we should get used to our Parliamentary procedures, giving the House a more detained period of time and relaxed period of time in which to consider legislation. But on this occasion, I think, the interests of Gibraltar justify the exercise of that power by way of the Constitution, and therefore I have done so.

Mr Speaker, as the Long Title of the Bill suggests, the main purpose of it is to transpose two Directives. Directive 2005/60 is more commonly referred to as the Third Money Laundering Directive and is transposed by this Bill. Then, there is another Bill on the Order Paper, also covered by my certificate, that makes corresponding amendments to the Terrorism Act, which deals with terrorism financing. Directive 2006/70 which supplements the Third Money Laundering Directive and is transposed also by this Bill. It goes without saying that the Third Money Laundering Directive builds on the previous Directive, which was transposed by the Criminal Justice Act 1995 and the subsequent amending Act. Mr Speaker, there are one or two aspects of the Bill which are not Directive-driven and the point that I am about to make next is one such point. The title "Criminal Justice Act" I think is a misnomer. It implies that the Act is concerned with wider issues pertaining to the criminal justice system. In fact, the Act is rather limited in scope and really deals only with money laundering and the confiscation of proceeds of criminal conduct. Therefore, I think it is helpful that we change that. Therefore, clause 2 of the Bill amends the Short Title of the Criminal Justice Act so that it should henceforth be called "The Crime (Money Laundering and Proceeds) Act 2007". Then the name of the Act will not only reflect what it does but it will give us an aptly named Act to add on future legislation. For example, if we wanted to have wider legislation about the recovery of proceeds of crime, if we wanted to establish some mechanism for that sort of thing, it would allow us to park it in an Act which is more aptly named for the purpose. Clause 3(a) to (c) corrects a number of renumbering errors in the current Act. For example, the current Act contains two subsections (2). By way of substantive amendment to section 2 of the Act, a person who undertakes a relevant financial business, must now make a disclosure on the additional grounds that he has reasonable grounds for suspecting a person to be engaged in money laundering and that he is attempting to launder money. Presently under the current Act, a disclosure is only required where a person knows or suspects that a person is actually engaged in money laundering. Clause (3)(d) inserts two definitions in section 2 of

the Act, with respect to the definition of the Gibraltar Financial Intelligence Unit or GFIU, the present position is that a disclosure concerning money laundering can be made through any police or customs officer. As it stands, the Act fails to recognise that it is those officers who are based in the GFIU that are in a position to respond to such disclosures. Although in its recent review the IMF noted that the GFIU functions effectively within Gibraltar and was actually complimentary about the work it carries out, it did recommend that this point be addressed. As a first step to doing so, the definition of "GFIU" in the Act will assist in clarifying to whom reports ought to be made. In other words, that whereas in the current Act, reports are made to a police officer or customs officer, meaning any police officer or customs officer, in future it will be to the Gibraltar Financial Intelligence Unit, which is the dedicated body comprised of police officers and customs officers, set up precisely to receive money laundering notifications. Indeed, as a second step, although we have not done it in this Bill, in implementing the IMF's recommendation we are going to put GFIU on a statutory footing. At the moment it is just an informal coming together of police and customs officers but we will give it a statutory framework soon. I am told the legislation is being worked on already. Clause 4 of the Bill substitutes section 5 of the Act relating to tipping off. The current section 5 of the Act, subsections (4), (5) and (8) to (10) remain intact, save for them being renumbered. The effect of the amendments to the other subsections are to refine the tipping off provisions. For example, the current position is that an offence is committed if a person discloses knowledge or suspicion that a police or customs officer is acting or is proposing to act in connection with an investigation, which has or is about to be instituted, and that disclosure is likely to prejudice a current or proposed investigation. That is the current anti tipping off regime. Under the recast section 1, the offence is committed if the disclosure relates to information obtained in the course of a business or activity to which section 8(1) applies. Section 8(1) is the definition of relevant financial businesses. The tipping off relates to (a) his or another person making disclosure to police, customs, money laundering reporting officer or GFIU; or (b) to

an investigation which is being undertaken or is being contemplated. From the foregoing the hon Members will deduce that the actual offence is narrower in the sense that it applies only to information that has come to the person's knowledge in the course of his business or activity. So the effect of this amendment is actually to narrow rather than to widen the offence. Then only if that person undertakes a relevant financial business as set out in section 8(1) of the Act. Presently, there is no limitation as to the manner in which a person acquires the knowledge that he then tips off, and therefore places him at risk. So this is a narrowing of the scope of the offence of tipping off in one sense. In another sense it is also slightly wider, in that currently the prejudice actual or potential to an investigation has to be proven, and that requirement is no longer the case. So it is narrower in one sense and wider in another. It is wider in the sense that previously they only had to be prejudicial to an investigation and now that no longer has to be proved. Other amendments to section 5 of the Act include a provision exempting certain intra group disclosures by credit and financial subsections. So in other words, these are people that can tip each other off, so to speak, without incurring the offence of tipping off. For example, disclosure by auditors, accountants and legal professions already enjoy an exemption, and that is now extended to disclosure to similar professions in other jurisdictions where they share ownership, management or control. Therefore, and subject to certain restrictions and qualifications, an accountant in Gibraltar might not commit the offence of tipping off, by the mere fact that he makes the disclosure to a colleague in another branch outside Gibraltar. That is one example of the application of this widening of the list. A further and new defence is provided in section 5(8), where the purpose of the disclosure is to seek to dissuade the client from engaging in criminal activity. So in future, those hon Members of the House who are practising criminal lawyers, will be able to dissuade their clients from committing criminal activity, without thereby incurring the risk of being prosecuted for tipping off. Section 5A is introduced by clause 4 of this Bill and is a new provision which seeks to restrict the disclosure to persons who are in States or Territories, in respect of which the EU adopts a

decision restricting such disclosures. Clause 5 of the Bill amends the heading of Part 3 of the Act, so that it properly reflects the fact that the part provides for measures for the prevention of the use of the financial system for the purpose of money laundering. It will now make it clear that terrorist financing is also being addressed by Part 3 by adding those to the Title. Clause 6 of the Bill amends the definition in section 6 of the Act to include certain definitions used in the Third Money Laundering Directive, deletes some that will be made redundant by changes that are to be made by the Bill, and by way of housekeeping amends some definitions that require updating. Clause 7 of the Bill recasts section 7 of the Act in line with the new provisions in Article 3.9 of the Third Money Laundering Directive, and which redefines what constitutes a business relationship. Clause 8 of the Bill amends section 8 of the Act. In particular, clause 8(1)(b) amends section 8(1)(k) to exclude general insurance intermediators following representations from that sector. Clause 8(3) of the Bill provides the legal basis for any future amendment of the list of business and activities in section 8(1), by regulations, and this will give the Government the ability to carry out amendments without undue delay, in order to respond to the needs of the various sectors or to give effect to any future requirements. In other words, section 8 contains the list of businesses which are deemed to be relevant financial businesses and who are subject to the regime of the Money Laundering Act. From time to time, the EU will seek to add businesses to that list. In the last round they added estate agents and car dealers, retailers of articles worth more than 10,000 euros, and that list may continue to grow. The effect of clause 8 of the Bill is that we shall be able to add to the list by regulation, but what we are doing is not changing the regime of the Act but simply adding a new line of business which is covered by its provisions. Sections 9 and 10 of the Act are substituted by sections 10A to 10R to bring customer due diligence requirements in line with the Third Money Laundering Directive. New section 10A defines in greater detail than was the case what customer due diligence measures mean. Under the new section, documents used to identify a customer must be capable of being verified on the basis of information obtained

from a reliable and independent source. That is the crux of the change to the new diligence provisions. In the case where the beneficial owner is not the customer, section 10A(b) requires that in the case of a natural person, his identity is established and where the person is a legal person, a company trust or something like that, that the ownership and controlled structure is clear to the person undertaking customer due diligence. In other words, that relevant financial businesses must know the identity of their ultimate client and not simply be dealing with an intermediary or a middle man, masking the identity of the real beneficial owner of the structure. When customer due diligence measures are to be applied, is set out in section 10B. In other words, those are the due diligence obligations, now when must they be deployed? The answer to that is to be found in section 10B. Generally, customer due diligence measures are to be applied (a) on the establishment of a business relationship; (b) when an occasional transaction amounting to 15,000 euros or more is undertaken; (c) where money laundering or terrorist finance is suspected; and (d) where there are doubts as to the veracity or adequacy of documents previously obtained for identification purposes. On-going monitoring of a business relationship is provided for now in section 10C. Since the application of customer due diligence at the outset of the business relationship does not guarantee that at some point after the relationship has been established, that relationship is not abused. In other words, this is another of the changes. Due diligence obligations is not now a question at the outset, there is an obligation to continuously monitor due diligence of one's existing clients throughout. So it is not just a once and for all activity. New section 10B, sets out the timing for the verification of the identity of the customer, which ordinarily should occur at the outset. However, there is provision for when this is not possible and the risks are low. In other words, that there is provision for certain sorts of transactions which one can proceed with without due diligence, because the risks of money laundering are low, but one must then get on with it quite quickly immediately after the transaction. Section 10E applies to casinos and is unchanged in its practical effect, save for the raising of the threshold from 1,000 to 2,000 euros. In other

words, I think the existing Act says that the casino has to exercise due diligence whenever somebody cashes in 1,000 euros worth of chips or buys 1,000 euros worth of chips and that has just increased to 2,000 by the Directive. Therefore, identification of customer will be required where purchase of gambling chips reached or exceeded the buyer's threshold. Section 10F is a new provision that requires the cessation of a transaction where customer due diligence measures cannot be applied.

The main feature of the new regime introduced by the Third Money Laundering Directive, is the approach to assessment of risk by the introduction of the so-called risk based approach. Under this regime, under the so-called risk based approach, and that is really the most important philosophical changes of the Third Money Laundering Directive. Under the risk based approach, the new concept of simplified due diligence, may be undertaken in appropriate circumstances, that is, where the risk of money laundering and terrorist financing are considered to be low, as set out in section 10G. Conversely, enhanced customer due diligence will be required where risks are higher. Such as in the cases of non face to face transactions, provided for in section 10I. That, for example, will have implications in due course for our on-line gaming industry who are always establishing new relationships with their clients on a non face to face basis, because the clients are dealt with on-line. But also applies to such things as correspondent banking relationships where a party is outside the EEA, and that is provided for in section 10J. Another area in which increased risks are perceived to exist, is in connection with transactions involving a class of persons described as "politically exposed persons". That class of persons is identified in section 10A. The Opposition Members can rest on the question. It actually only applies to politically exposed persons in another Member State. I think the Directive assumes that countries have their own anti-corruption legislation and that this Directive is not about providing for how Member States deal with their own politically exposed persons. It is a mechanism to ensure that Member States have certain obligations in respect to another country's

politically exposed persons. So, that class is identified in section 10K as read with paragraph 3 of Schedule 1, and applies to persons who have held prominent positions in other States or Territories, Community institutions or international bodies, as well as family members and close associates. Such persons will automatically be subjected to increased scrutiny by relevant financial businesses. The increased scrutiny includes the requirements for senior management approval to the establishment of a business relationship, that is section 10K(1)(a). Increased source of funds and investigations set in section 10K(1)(b) and enhanced on-going monitoring, section 10K(1)(c). New section 10L requires credit or financial institutions that have branches and subsidiary undertakings outside the EEA, to apply measures which are at least the equivalent to those in the Act, so far as this is allowed by the laws of that State or Territory. New section 10M as the section heading suggests, relates to shell banks and anonymous accounts. With respect to shell banks, these are not considered appropriate vehicles for the conduct of business, and as a result the Directive prohibits credit institutions from entering into or continuing correspondent banking relationships with shell banks. The section also prohibits the creation of any anonymous account or passbooks. Also credit institutions are required to conduct customer due diligence and on-going monitoring of any existing anonymous account. This requirement is, as I say, a Directive requirement and therefore needs to be transposed. But at a practical level, industry practice has for some time shied away from anonymity and also relationships with shell banks. Therefore, it is highly unlikely that these amendments will have any practical significance. The definition of a shell bank is a bank set up in a jurisdiction in which the bank actually has no management presence. Really, what is called the brass plate bank. There are some jurisdictions in the Caribbean that specialise in this, banks in name but there is no presence, there is no brick and mortar, there is no management, that is what a shell bank is. Section 10N provides the framework for when a relevant financial business may rely on the customer due diligence that is performed by another party, including where customer due diligence is outsourced. In general terms, the

relevant financial business may rely on another person if that person falls within a certain category, and if that other person consents to be relied on. The category of persons is defined in subsection (2) and includes credit or financial institutions, auditors, external accountants, and independent legal professionals to name but a few. In other words, these are people on whom somebody that has an obligation to due diligence, may rely on or may outsource his obligations to. The key aspect with respect to reliance on another is that the liability for compliance with customer due diligence measures cannot be divested or outsourced. Therefore, it is incumbent on the person seeking to rely on another, to satisfy himself that the procedures that he shall be relying upon are adequate. In other words, one cannot just rely on another lawyer or accountant, or outsource one's obligations to him in respect of one's business, without taking care to see that his methods are compliant with the legislation. In other words, one cannot just outsource and look the other way. Section 10O is not a requirement of the Directive being transposed. By this section, the Minister may direct a relevant financial business to desist from entering into a business relationship, or from continuing one, where his corresponding party is situated in a State or Territory against which the Financial Action Task Force or FATF has applied counter measures. Should this power need to be invoked, it will be effected by the Minister for Finance issuing a direction which would be published in the Gazette. In other words, from time to time the FATF black lists or advises counter measures to be taken in respect of businesses established in particular territories. It is rare but it happens. This measure will give the Gibraltar Government the statutory framework to respond to that by saying, following this measure by the FATF, which is applied by all the FATF Member States, which is all the reputable finance centres, the Minister prohibits Gibraltar financial services companies from having relations, either with institutions in a particular country or with a particular institution in a particular country. New section 10P relates to the keeping of records and recasts sections 16 and 17 of the Act. The requirements are fleshed out in some more detail than was the case. However, the underlying principle and the length of time in respect of

which documents ought to be retained, five years, remains largely unchanged. Section 10Q requires that a relevant financial business establishes and maintains policies and procedures in relation to the following matters. In other words, this is where the legislation actually adds costs and bureaucracy to businesses, because businesses have to have policies and trained staff to implement policies in this list of things. Customer due diligence measures and on-going monitoring; reporting to the GFU, for example, any suspicious transactions; record-keeping; internal control; risk assessment and management; the monitoring and management of compliance with and the internal communication of such policies and procedures, in order to prevent activities related to money laundering and terrorist financing. In other words, every relevant financial business, that is, every business the nature of which is listed in section 8(1) of the Act, has to have internal mechanisms for each of these items that I have just listed now. As mentioned earlier, the difference brought about by the latest Directive is that these policies and procedures may be implemented on a risk sensitive basis. Therefore, the burden on any individual business will vary according to the risk profiles of its clients. Section 10R requires that employees be trained, not only as to the legal obligations flowing from the legislation, but also at a practical level in recognising and dealing with suspect transactions. Such training is not a one-off thing, since section 10R(b) requires that such training be regularly given, and this is capable of also throwing up new cost to businesses in those areas. Clause 11 of the Bill amends section 19 of the Act, and in particular subsection (2), which is replaced by a provision designating the bodies listed in Part 1 of Schedule 2 as supervisory bodies. Such a list may be amended by Order. Part 1, Schedule 2, lists the supervisory bodies which were previously set out in section 19(2), with the exception of paragraph (e) which is a new addition. For the present, the Financial Secretary is designated as the supervisory body for the businesses and activities in respect of whom there is currently no supervisory body in place for oversight of the application of the Act. These are, auditors; external accountants and tax advisers; real estate agents; notaries and other independent legal professionals; dealers in all

high value goods; currency exchange officers, bureaux de change, which will shortly go to the FSC; money transmission/remittance officers, which will also shortly go to the FSC. It should be noted that paragraph (e) also provides for the transfer of the supervisory duty to other persons or bodies, to the publication of a Notice in the Gazette. Clause 12 of the Bill inserts a new section 19A, the effect of which is to make supervision a statutory duty of the listed supervisory bodies. Clause 14 of the Bill inserts sections 20A and 20B, the effect of which is that criminal offences are established for particular breaches of duties imposed under the Act. Clauses 15 to 18 are of a housekeeping nature. Clause 19 inserts two Schedules to the Act. I have already referred to Schedule 2 in relation to supervisory bodies. Schedule 1 elaborates on the conditions applicable to simplified due diligence, and further defines the class considered to be politically exposed persons. Clause 20 is also a housekeeping measure that addresses the changes required as a result of the use of the formulation of GFIU in place of police or customs officer. It also corrects certain references to Acts that have in recent times had their Short Title amended. I commend the Bill to the House.

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

HON F R PICARDO:

Mr Speaker, a Bill transposing a Directive that attempts to further tighten how we control and ensure that the financial system is not abused for the purposes of the laundering of money and which is the proceeds of crime, is only ever going to enjoy support on both sides of the House. The fact that the time for the Bill's publication and passing in this House has been abridged, in the circumstances explained by the Chief Minister in this case, is also going to enjoy, although it does not need it, the support also of the Opposition. I am minded to remind the House, that those who criticise us the most have only recently themselves transposed what is known as the First Money Laundering Directive, and they should be looking at keeping

their own house in order before they criticise others. In Gibraltar, we see pieces of legislation in the Finance Centre and politically, as opportunities. A piece of legislation which deals with issues such as this, as opportunities to ensure further the raising of already very high standards on the control of the abuse of the financial system for the purposes of money laundering. It is an opportunity, not an obligation that we shy away from, and it is an opportunity to ensure that high standards are raised even further, and that those who might wish to launder funds can see this as a red light to their attempts to use Gibraltar as the financial services centre where they might want to do that.

Looking at the detail of the Bill, on the question of the Title, the things that the Chief Minister has told us as the rationale for the changing of the Title, I think make a lot of sense. He will know, that the first transposition of Directive 91/308 into the Criminal Justice Act, followed very much the transposition in the UK which also referred to its anti-money laundering legislation as criminal justice legislation at the time. It now refers to it as proceeds of crime legislation, which is how we will be referring to it, therefore, we agree with that logic. Section 5, subsection (12) or the new section 5(12) which is being inserted by clause 4, is not a new subsection. Section 3(10) of the existing legislation already provides that very wide ambit for police officers and customs officers to do things that they need to do to police this Act, without themselves being found to commit offences in the process. Even if they do, the Act is xxxxxx of what might otherwise be offences. A Parliament is always going to be careful in granting immunities to individuals, whatever their professions, to allow them to commit offences. I think that the trust deposited in the law enforcement agencies in 1995, when the original subsection giving those powers was passed, has been well placed and well deposited in our police force and in our customs department. But I think it is fair to note that this is, again, the same very wide power being given and that, obviously, it is deposited with them on the basis of full and complete trust by this Parliament. Section 10N(2), at page 1314 of the Bill, deals with who an individual can rely on to already

have carried out the due diligence procedures which an individual who is in financial services business caught by the Act, has to carry out himself. There is a change of philosophy here, as well, which I think is important to note. The existing legislation and the existing anti-money laundering guidance notes issued by the Financial Services Commission, allow company managers and professional trustees to rely on the due diligence having been carried out by each other, in the circumstances provided for in the legislation and in the Directive. My reading of the Directive is that it would be possible to allow company managers and professional trustees to continue also to rely on the due diligence having been carried out by others. In this instance, the way that subsection (2) is phrased, the only parties whose due diligence can be relied on are credit or financial institutions which are authorised by 10N(2)(a). By 10N(2)(b), auditors, insolvency practitioners, external accountants, tax advisers or independent legal professionals supervised for the purposes of this Act, and then by (c), persons who carry on business in another EEA State which carry more or less the same description, or by (d), persons authorised in a non-EEA State that carry out the same sort of description of business. The provisions of the Directive that deal with this aspect of this matter are in section 4 of the Directive, which deals with performance by third parties. The Directive by Article 14, envisages continuing or the possibility allows Member States to allow the classes of individuals covered by the Directive, and it specifically includes trust and company service providers not already covered by the definition of parties covered by the Directive. So they are specifically covered under Article 2.1 to rely on each other's due diligence. We have decided not to allow company managers to rely on that. We have allowed them, company managers and trustees have done due diligence capable of being relied upon until now. I do not see the Directive requiring us to create a regime that does not include their due diligence as due diligence which can be relied on. I would be grateful if the Chief Minister could tell us why it is that the Government, with the leeway that they have in the Directive, have decided that that should be now the case. That their due diligence is not due diligence which now can be relied on. Other

than that, we have only minor points to raise in Committee. I am grateful for the Chief Minister having given us his letter setting out what are the points that he will raise during the debate.

HON CHIEF MINISTER:

Yes, just to say that I did not raise the intended amendments in my own address on the principles because I think they just relate, really, just so that it is English, so that the section reads, there is no substantive amendment. I am grateful to Opposition Members for acknowledging and accepting, albeit that their acceptance is not necessary, but I think it is a power that, where possible, should be used consensually. I do not forego the right to use it even in non-consensual circumstances, but certainly, I am most comfortable using it consensually. Therefore, I am grateful to them for signalling that they believe it is a proper use of the power on this occasion. I think the hon Member has raised only one point that goes to the actual principles set out in the Bill, and it is the one that requires a reply from the Government. That is the one that he has just spoken about, in layman's terms, why cannot trust and company managers rely on each other as others, given that the Directive appears to permit it. I have to say that this is not a point upon which the Government's policy guidance has been sought. Therefore, having been alerted to the point by the hon Member, I will certainly look into it and if there is a good policy reason why that option has been chosen, then the legislation would stay like this. If on the other hand there is no good reason and the preferable view is that it should be extended to them, we will introduce amending legislation at a later date. But, certainly, speaking for the Government at a political level, we have made no conscience decision to exclude the ability of trust and company managers, or indeed others, because the effect of section 14 applies to everybody covered by the Directive. It is all parties covered by the Directive, so theoretically it is all relevant financial businesses as listed in (a). I am not sure that I would wish to extend the ability to rely on each other to all of them, but there may be some to whom it has not been extended by our

legislation, perhaps that it ought to be extended. I will certainly have a look at that point.

HON F R PICARDO:

It is not just that company managers and professional trustees cannot rely on each other. It is that even, for example, one of the parties whose due diligence can be relied on. For example, an insolvency practitioner who is doing business with a new customer, cannot rely on the due diligence having been carried out by a company manager or professional trustee on that individual, even when he might think that it is appropriate to do so. I am grateful for the Chief Minister's indication that he may come back on this. This is not yet, in my view, an Act that is going to be in final and untouchable form. There are issues, as the Chief Minister knows, as to for example, who will be responsible for compliance issues before the Bar Council, et cetera on which I am sure that we still have to come back. So that may be an appropriate point to consolidate all these issues that are coming out in this debate.

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 (AMENDMENT) ACT 2007

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Act to amend the Terrorism Act 2005 to partly transpose into the law of Gibraltar Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, 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 my earlier address in connection with the Criminal Justice (Amendment) Bill, I stated that the transposition of Directive 2005/60, the Third Money Laundering Directive, was being partly transposed by that Bill and by this one. I also referred to the reasons why I considered necessary to abridge and I will not repeat those points again. Although simply to note for Hansard that my certificate under the Constitution for the abridgement of the six weeks applies also to this Bill. In effect, the changes to the Terrorism Act made by this Bill are quite modest. Clause 2 of the Bill inserts the definition of GFIU in identical terms to that employed in the previous Bill, and this will replace references to the Police. In particular, in section 9 of the Act, as provided for in clause 3 of the Bill. Clause 4 of the Bill inserts section 9A to exempt certain professionals from the obligation to make disclosures to the GFIU in certain circumstances. This, again, is not a new concept having been available in the Criminal Justice Act. It is only new insofar as it had not been provided for in the context of the Terrorism Act. Clause 5 of the Bill inserts a new section 10A, the effect of which is to give persons immunity from suit, whenever they make a

disclosure to the GFIU as required by the Directive. I commend this Bill to the House.

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

HON F R PICARDO:

I will not repeat what I said earlier about the abridgement of time, or about the fact that we are doing these things more expeditiously than most other Member States. But this is a point which I know we are doing here what the Directive is saying we should do, it is really just a point that I raised with the Chief Minister and with the Parliament generally. I understand why it is that there should be exceptions, for notaries, independent legal professionals, auditors and external accountants who might be involved, in my reading, in the representation of someone in proceedings where that person has alleged to have been involved in terrorist activities. Frankly, in my view, any tax adviser that comes across information that suggests that somebody is involved in terrorism, should have an obligation to report. Having said that, the Directive is what we are transposing, the Directive allows tax advisers the same leeway in exactly the same way that is set out here. I just cannot for the life of me think why it is that the Commission would not want tax advisers caught when they identify potential terrorist activity, but so be it.

HON CHIEF MINISTER:

Yes, only to point out to the hon Member that this was one of the most controversial aspects of the debate within the EU institutions. Actually it is not a Commission wish, it is a Parliament wish. This was inserted by the Parliament after huge lobbying from the industry. It is not the language that the Commission sent up, hon Members may remember seeing it in the press, these exemptions were the main issue. When this proposed Directive, as it then was, came before the Parliament it

was the main issue debated *ad nauseum* in plenary and, indeed, I think a special committee was formed and it went on and on and this was the compromise that they eventually worked out.

HON F R PICARDO:

Absolutely right. I am grateful to the Chief Minister for that. The Directive in Article 23, tells us that Member States shall not be obliged to require these classes of individuals to make reports et cetera in the circumstances set out in the Directive and now set out in our Act. We are able to bring people more tightly under control and we are able in this Parliament to require tax advisers who come across information that suggests that somebody is involved in terrorist activity, to make a report. I am raising the issue because although, of course, Gibraltar is a Finance Centre and as a result we give a lot of tax advice, I cannot think of any adviser in the Finance Centre who is giving tax advice, who might come across evidence that somebody that he is advising is involved in terrorist activity, who would not but jump and make a report. I raise that point because the Chief Minister may wish to consider it in the future. But this is perfectly proper transposition of the Directive as it is at the moment. But it is something that, perhaps, we may want as a Parliament to revisit later on.

HON CHIEF MINISTER:

Well, just two points. First of all, as he quite rightly points out, the fact that there is not a legal requirement to make a disclosure does not prohibit the making of a disclosure, and there is, it has to be recognised, a general climate/principle within the Government that says that normally Gibraltar transposes Directives giving itself the benefit of maximum leeway. In other words, unlike some countries that transpose their Directives on a sort of copper plated bottom basis. In other words, they gold plate it and then it is taken up the hill, we tend to apply the other principle, which is the principle adopted in

most EU Member States. That is, that we only transpose EU Directives that are compulsory, and where one has a choice, that is not compulsion. Where one has a choice not to do something that is not compulsion, and as a rule it is not transposed. But, of course, as a matter of domestic law and not by EU compulsion, we can pass in this House whatever legislation we like. Since most tax advisers tend to be lawyers in Gibraltar, I assume that the hon Member is not particularly suspicious of them in the context of terrorist financing.

HON F R PICARDO:

The lawyers have a specific exemption themselves and it is right that they should, because a lawyer may come across information relating to terrorist activity, not just in his capacity as tax adviser but in his capacity as the defence counsel of a terrorist, or somebody who is alleged to have committed offences relating to terrorism, and there must be privilege in those circumstances. But somebody who is in the other class, and this is a class on its own, tax adviser on its own, who comes across such evidence in my view should be compelled by this Parliament to make a disclosure, should have no discretion not to make one.

HON CHIEF MINISTER:

Yes, the hon Member may actually be raising inadvertently a different point. The hon Member has, I suspect inadvertently, but in any case I am grateful to him, alerted me to what might actually be a defect in the drafting of this, because the exemptions from (a) I think there is a problem here with the layout. In other words, the words at the bottom which are restricting of the exemption, "whether such information is received or obtained before, during or after such proceedings", I think as set out would apply only to (b). So in other words, lawyers appear to have a narrower exemption than notaries, independent legal professionals, auditors et cetera. "The

information has been obtained on or received from one of their clients", it has all got to be read together. (a) is the list of persons, (b) is the extent, which is a limiting extent of the xxxxxx, if not in all circumstances.

HON F R PICARDO:

Just in proceedings then.

HON CHIEF MINISTER:

"The information has been obtained on or received from one of their clients (i) in the course of ascertaining the legal position for their client; or (ii) whilst performing the task of defending or representing that client in, or concerning judicial proceedings," including advisory..... "or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings". In other words, the whole of (b) including those two last lines, applies to the whole of (a). Even to the tax adviser, so it is a restricted, it is not an absolute, exemption. I think the idea of this is, what I remembered from reading the debate in the European Parliament at the time, that there was a very strong view..... There are some cases which are clear money laundering and other cases which may not be, and people are entitled to take legal advice as to whether their case comes within the scope of the law or it does not, without running the risk of having the whistle blown on them by the very person from whom they are taking that precautionary advice. It is also intended to protect the professional, whose advice is sought, who does not have to blow the whistle on every party to whom he gives advice. The party may be coming in perfectly good faith, "look I am doing this transaction, is it or is it not covered by the Directive?" There was a very strong view in the European Parliament that people should not be compromised in their ability to seek advice in the context of ascertaining what their

legal rights and obligations are. I think that is the context in which this provision needs to be read.

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 D A FEETHAM:

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 Justice (Amendment) Bill 2007;
2. The Terrorism (Amendment) Bill 2007.

THE CRIMINAL JUSTICE (AMENDMENT) BILL 2007

Clauses 1 to 5 – were agreed to and stood part of the Bill.

Clause 6

HON F R PICARDO:

In clause 6, which is amending clause 6(a)(iv), in the definition of “credit institution”, I think that the draftsman has cut and pasted the definition of “credit institution” from the Directive and has in that exercise cut and pasted also the footnote that appears there, just before the comma in the sixth line the (1) is a footnote that has come into the text. I think we need to delete the “(1)”.

HON CHIEF MINISTER:

Yes, but only the “(1)” not the language that follows it.

HON F R PICARDO:

Absolutely right. If the Chief Minister looks at the definition of “credit institution” in Article 3.1 of the Directive, which goes all the way to the word “community”, it is fine that we should have that in here but we do not need the reference to the footnote. That is just a cross reference to the definition as it first appears in the Official Journal in another Directive.

Clause 6, as amended, was agreed to and stood part of the Bill.

Clauses 7 and 8 – were agreed to and stood part of the Bill.

Clause 9

HON CHIEF MINISTER:

In clause 9, at new section 10P, which relates to record keeping the hon Members will find at page 1317 there are a few amendments to do mainly with re-lettering. In subsection 2(a) for “10L(4)” substitute “10M(4)”. In subsection (5), for section

“10N(1) (a “third party”)", substitute section “10N(2)(a) or (b)". In subsection (6) for section “10N(1) (a “third party”)", substitute section “10N(2)(c) or (d)” and after subsection (7) insert a new subsection (8) to read:

“For the purposes of this section a person relies on another person when he does so in accordance with section 10N(1).”

HON C A BRUZON:

In this same section, in 10E where reference is made only to euros, I assume that is the case because that is the official European currency but what happens in countries like the UK or Gibraltar where Sterling is the official currency? I am not a lawyer, of course, and I speak as a layman in these matters but could there not be a loophole in the law if somebody is told that because the value of the chips being bought is more than 2,000 euros and Sterling is the currency in use. Would it not be wiser to add “or the equivalent in countries where euros is not the official currency”?

HON CHIEF MINISTER:

No, because it is phrased in terms of with a value of 2,000 euros. In other words, whether one pays for them in Sterling or anything else, they have a value of 2,000 euros. It means, I suppose in marginal cases, where it is 1,999 euros or 2,001 euros, one’s guilt or innocence may depend on the precise rate of exchange at that moment in time. But with the exception of that there is no defect in the legislation. In the earlier bits of EU legislation, a Sterling equivalent had been put in which then constantly had to be changed, because the Directive requires the value to be 2,000 euros. If one puts a figure in Sterling, which we could do, we could now calculate what is 2,000 euros in Sterling, every time the exchange rate varied we might have

to increase or decrease the amount of the Sterling figure involved, and that would simply be too cumbersome.

HON F R PICARDO:

By way of background, the Chief Minister may recall that the original Directive 91/308 was actually expressed in ECU, the old measure of currency for the Community and that was actually transposed into our law, as I recall we had to check constantly the rate. In 10K, still in clause 9, (1) a relevant financial business who proposes to have a business relationship, I think it actually is a relevant financial business which proposes to have a relevant business relationship.

HON CHIEF MINISTER:

Well, the hon Member is assuming that the list of relevant financial businesses applies only to legal persons. Of course, a relevant financial business can also be a natural person. I am not sure, therefore, that the point that he makes is right in all cases.

HON F R PICARDO:

Of course, the next clauses go on to deal with businesses which would not be individuals, because they talk about senior management in organisations.

HON CHIEF MINISTER:

Yes, but section 10K is politically exposed persons, it is one of the obligations relating to relevant financial business and it is an obligation that affects individuals as well. I accept that most businesses nowadays tend to be carried out by legal persons and not individuals, but there are still individual traders and

things of the like. So I do not think that that amendment is indicated.

HON F R PICARDO:

I think, this is really not an issue we should debate at length, but the elegance of our legislation concerns all of us just as much, I am sure. If I as an individual practitioner do business with a politically exposed person, I Fabian Picardo am a who but I am still exercising my financial business obligations, a business which makes a declaration, a business which makes a tax return, et cetera. I am a business “which”, I am a person “who”. I do not think it is one we should score points over, I just think it does not read right as “who”.

HON CHIEF MINISTER:

I did not say that he was wrong. One way of getting over this would be to have neither “which” nor “who” but rather “that”. A relevant financial business “that” proposes to have a business relationship.

HON F R PICARDO:

I will agree with that.

HON CHIEF MINISTER:

Well, if he agrees with that I agree with that.

MR SPEAKER:

Consensual politics.

HON C A BRUZON:

In 10G(7) where it speaks of euros again, would it not be better, following the Chief Minister’s previous argument, to insert the word “value”. A life insurance contract where the annual premium is no more than the value of, or the value and then the last phrase of no more than the value of 2,500 euros?

HON CHIEF MINISTER:

My point did not depend on the use of the word “value”. The use of the word “value” certainly helps but it is not that if the word “value” is absent the same point does not remain good. It has got to be no more than 1,000 euros or where a single premium of no more than 2,500 euros is paid. The hon Member makes the point that if one pays in another currency one is not paying in euros and therefore one is outside of the law altogether. Well, I suppose a lawyer could take that point, whether it would be a good point or not. I have no objection in including it if the hon Members think that it adds a level of protection to the legislation. I do not want to sound unwilling to accept helpful amendments. I do not mind adding it. A life insurance contract with an annual premium is no more than. Actually, what I am going to do is not accept the hon Member’s suggestion in this case without rejecting the reason why he gives it. If he is right then, of course, it is not just this legislation that it applies to but other legislation. We think that the Interpretation and General Clauses Act, or even the European Union Act, may have already been amended to include a provision with a deemed equivalent value clause. But if it has not, what I would like to do is think a little about the point the hon Member makes and if it is a good point we will deal with it at that level. In other words, we will put..... Yes, because otherwise we are going to have to have a formula that we put into every single piece of legislation. If there is an issue about whether legislation that says “euros” does not apply if one does the transaction in Turkish Lira, then We cannot have a situation where the money laundering legislation only applies to transactions carried out in euros. I am not sure

that that is the effect of this, but if there is merit in flagging the point up and, for the avoidance of doubt, we decide that it should be saved, we would take that step in either the Interpretation and General Clauses Act or the EU Act, so that it covers all legislation past and future in which the same point may arise. Of course, if he is right, this is not the only legislation where it is going to arise. I am grateful to him for pointing it out and we will deal with it in another way.

HON F R PICARDO:

If it is helpful, the language that we are using is taken directly out of the Directive. In Article 10 of the Directive dealing with casinos, the reference is to a value of euro 2,000 or more. In Article 11.5.a, which is the premiums that we are referring to now, there is no reference to the value of, there is just a reference to the euro amount. So it may be that there are issues in the Directive itself, because not all the Member States have adopted the euro. There must be a mechanism in all the others where the Directive still binds.

HON CHIEF MINISTER:

We want to see how the UK and Denmark deal with this. Yes, I am just being reminded why in the case of the chips the word “value” is there. That is, of course, chips have no intrinsic face value. Chips are not worth 2,000 euros, they are bits of plastic that have a value of.

HON F R PICARDO:

They are I.O.U's.

HON CHIEF MINISTER:

Yes. But that does not derogate from the point that the hon Member has now made.

Clause 9, as amended, was agreed to and stood part of the Bill.

Clause 10 – was agreed to and stood part of the Bill.

Clause 11

HON CHIEF MINISTER:

In clause 11 in two places, page 1322, but if I can just make the argument and point out to the hon Member that it will apply also to the next clause so I do not have to repeat it. It just does not read, it reads, “the Minister may by Order published in the Gazette add, delete or amend the supervisory authorities”, it just does not read. It is just for the purpose of the quality of the language that it should read “add to, delete from or amend the list of supervisory authorities”. There is no substantive change, it just reads. Otherwise it reads “the Minister may by Order published in the Gazette add, delete or amend the supervisory authorities listed” and it just does not read well in English, that is all. It is the same point later when the Clerk calls the next clause.

Clause 11, as amended, stood part of the Bill.

Clause 12 – was agreed to and stood part of the Bill.

Clause 13

HON CHIEF MINISTER:

Yes, here it is exactly the same point as in Clause 11. In section 20(6)(b), insert the word “to” after the word “add” and insert the word “from” after the word “debate”.

Clause 13, as amended, stood part of the Bill.

Clause 14

HON CHIEF MINISTER:

In clause 14 which introduces this clause 20A(1), the reference to “10N” should read “10O”.

Clause 14, as amended, stood part of the Bill.

Clauses 15 to 20 – were agreed to and stood part of the Bill.

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

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

THE TERRORISM (AMENDMENT) BILL 2007

Clauses 1 to 5 – were agreed to and stood part of the Bill.

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

THIRD READING

HON D A FEETHAM:

I have the honour to report that:

1. The Criminal Justice (Amendment) Bill 2007, with amendments;
 2. The Terrorism (Amendment) Bill 2007,
- 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 Justice (Amendment) Bill 2007;
The Terrorism (Amendment) Bill 2007,

were agreed to and read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

I have the honour to move, and in doing so I wish the hon Members a very Happy Christmas and a healthy New Year, that the House do now adjourn to Thursday 24th January 2008 at 2.30 p.m.

Question put. Agreed to.

MR SPEAKER:

With my own added Seasons Greetings to all the hon Members, to the Clerk and the Staff of this House and to your respective families. This House will now adjourn to Thursday 24th January 2008 at 2.30 p.m.

The adjournment of the House was taken at 11.50 a.m. on Friday 14th December 2007.

THURSDAY 24TH JANUARY 2008

The House resumed at 2.30 p.m.

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 Enterprise, Development and Technology and Deputy Chief Minister
The Hon Lt-Col E M Britto OBE, ED – Minister for the Environment, Traffic and Transport
The Hon F J Vinet – Minister for Housing
The Hon J J Netto – Minister for Family, Youth and Community Affairs
The Hon Mrs Y Del Agua – Minister for Health and Civil Protection
The Hon D A Feetham – Minister for Justice

The Hon L Montiel – Minister for Employment, Labour and Industrial Relations
The Hon C G Beltran – Minister for Education and Training
The Hon E J Reyes – Minister for Culture, Heritage, Sport and Leisure

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon F R Picardo
The Hon Dr J J Garcia
The Hon G H Licudi
The Hon C A Bruzon
The Hon N F Costa
The Hon S E Linares

IN ATTENDANCE:

M L Farrell, Esq, RD – Clerk to the Parliament

SUSPENSION OF STANDING ORDERS

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of a document on the Table.

Question put. Agreed to.

DOCUMENTS LAID

HON CHIEF MINISTER:

I have the honour to lay on the Table the Loan Agreement between the Government of Gibraltar and Barclays Bank PLC dated 20th December 2007.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) (AMENDMENT) ACT 2007

HON J J NETTO:

I have the honour to move that a Bill for an Act to amend the Social Security (Closed Long-Term Benefits and Scheme) Act 1996 so as to make provision for use of former spouse's contributions and for a further right of election to pay arrears, 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 Bill seeks to make two amendments to the Social Security Closed Long-Term Benefits Scheme. The

background to the further right of election to pay arrears is that prior to 6th January 1975, all employed persons who earned more than £500 per annum and self-employed persons were not liable to pay social insurance contributions, as from 6th January 1975 all such persons were required by law to become insured and pay social insurance contributions. Since those affected would most probably not have a complete contribution record when they reach pensionable age, provisions were made to allow them to pay the arrears of contributions at the rates from time to time in force, from the date they first became employed or self-employed until 5th January 1975. The provision to pay arrears of contributions also applied to those employed persons earning over £500 per annum, who opted to join the Social Insurance Scheme on 2nd July 1973 on a voluntary basis, but at the time did not take up the opportunity to pay their arrears of contribution. If passed, this amendment to the Act will be the fifth opportunity given by the GSD administration. In relation to the provision for the use of former spouse's contributions, it would be beneficial if I could briefly state what the current situation is and what is intended with the amendment to the Social Security Act. At present, a person may qualify for an old age pension based on his spouse's contribution record. When he or she reaches pensionable age their spouse is entitled to this benefit. However, as the law stands, a person whose marriage has been dissolved before he or she acquires entitlement to an old age pension, loses the right to claim this benefit on his or her former spouse's contribution record. The amendment to the Social Security (Closed Long-Term Benefit and Scheme) Act and the Social Security (Open Long-Term Benefits Scheme) Act, is intended to improve the position of divorced persons who have no right to a pension on their former spouse's contribution record, or are only entitled to a reduced pension on their own insurance record when they reach pensionable age. The amendments to section 7(b). The first amendment is essentially a re-enactment of the existing section 7(b), to allow those who opted out of making contributions under that Scheme a further opportunity to do so. An election to make such further contribution must be made by 1st June 2008. The new draft section 7(b) is in the same form as

the current section. Whereas the existing section gave a deadline of 22nd January 2005 for electing to make further contributions into the Closed Scheme, the Bill proposes a further deadline of until 1st June 2008. The deadline will allow sufficient time for the House to consider the Bill, and thereafter for those affected to decide whether to make contributions. The amendments only apply to those who fulfil the conditions in sub-clauses (1) and (2) of the proposed new section 7(b). In relation to the new section 12A, the second amendment represents an innovation. This Bill, if passed, will improve the position of current and future pensioners who are divorced and did not make social security contributions throughout the period of their marriage. As is inevitably the case with social security legislation, the formula for calculating the enhanced benefit is complicated, but I will try to explain this as easily as possible. Divorced pensioners may opt to have their pensions calculated by treating their ex-spouse's contributions during the period of the marriage as their own, albeit at half the standard rates. This will not affect the entitlement of the ex-spouse. The measure will apply regardless of sex, although its benefit will be felt mostly by those women who stayed at home to raise their children but have since divorced. As it is an innovation of importance to many in Gibraltar, it may assist if I go through the sub-clauses to explain the Scheme of the proposed provisions.

Sub-clause 1, this sets out the general scope of the new section. It applies to those persons whose marriages were terminated otherwise than by way of death. This includes those whose marriages were annulled. It defines them as the beneficiary. In sub-clause 2, the provision applies where the beneficiary does not qualify for the standard rate of the old age pension. The provision relates to the contributions made during the period of the marriage. The beneficiary may continue to have their pension calculated on their own insurance record, or they may elect to have it calculated by reference to those made by their ex-spouse during that period. It is an either or choice in respect of the entirety of contributions made during the period of the marriage, as will be made clear in sub-clause (6). In sub-clause 3, that defines the standard rate of the old age pensions. In

sub-clause 4, that defines the beneficiaries, relevant contributions and the former spouse's relevant contributions. This provision makes clear that the contributions in issue, whoever made them, are in respect of the entire period of the marriage. The reference to "partly" within the period of the marriage means contributions for the year when the marriage started and ended. In sub-clause 5, this credits the former spouse's contributions to the beneficiary. In sub-clause 6, this adds together the contributions made by the beneficiary, excluding those falling wholly or partly within the period of the marriage, and those made by the ex-spouse including those made wholly or partly within the period of the marriage. This makes it clear that there can be no overlap. As I said earlier, it is an either or choice. The yearly average is the key part of calculating social security entitlement as is calculated on the basis of this total. In sub-clause 7, we then calculate a theoretical rate. This is the amount that the beneficiary would receive under normal principles on the basis of the total of her contributions and her ex-spouse's combined. However, insofar as the pension relates to the ex-spouse's contribution, it is to be only a half pension. This is only the theoretical rate as there is an adjustment to follow in sub-clause 8. In sub-clause 8, these provisions adjust the rate of pension so that only a half pension is paid in respect of the ex-spouse's contribution. We do this by first multiplying the theoretical rate by the proportion of it that is attributable to contributions actually made by the beneficiary. We then multiply the theoretical rate by the proportion attributable to the ex-spouse's contribution but divided in two, as only a half pension is payable in respect of those contributions. We then add the two together. In sub-clause 9, this legislation only applies in respect of the last marriage. In sub-clause 10, this makes it clear that if the legislation applies in respect of annulled marriages, and in sub-clause 11 it is the commencement. There is a minor amendment to the Bill as published by way of an erratum. In the proposed section 12A the cross reference in sub-clause (7) to the yearly average should be to sub-clause (6) and not to sub-clause (8). I would like to take this opportunity to give my personal thanks to my predecessor, the Hon Yvette Del Agua, and to all of my staff at

the Social Security Department for the hard work both in the formulation of the scheme and for the many hours work in reviewing the many applications received. I commend the Bill to the House.

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

HON N F COSTA:

I would like to take the opportunity to inform the Minister that the Opposition will be supporting the Bill. But I would also like to take the opportunity to seek a point of clarification from the Minister. That relates to the clauses in the Bill that state that persons will not be able to claim benefit in respect of any period prior to 1st July 2007. So, the query is, how have Government arrived at the figure of 1st July 2007? Why are people not entitled to claim this benefit as from the date they reach pensionable age?

HON J J BOSSANO:

I would also like to have something clarified. Am I correct in the explanation that has been given, that in fact, the spouse's contributions which are counted in a subsequent marriage, will in fact be counted twice then. For the divorced wife and for the current wife, is that the correct interpretation of what the Minister has said?

HON CHIEF MINISTER:

There is no provision in the Bill that prevents people from claiming in respect of a period before 1st July, except in the retrospective sense. In other words, the Government have introduced this from the date that we announced it as a policy in the Budget. This is the relevance of 1st July, it is the commencement date of the Budget provisions. But of course,

the periods in respect of which one can claim credit go before 1st July. In other words, if somebody reaches pensionable age who divorced in 2005 or 2004, or 2003, that period is relevant. But there may already be people who are pensioners already in that situation. There may be a man or a woman who is already a pensioner, who got divorced several years or decades ago. They cannot claim retrospection of payments although the periods reckon as of 1st January. In other words, there is retrospection of reckonability for payments from now on but one cannot say, ah thank you very much, well I have been a pensioner for the last ten years, I therefore want ten years worth of retrospective payments on the basis of my ex-husband's contribution. So that is the position in respect of that. It does not count twice. In other words, a beneficiary who is most typically a woman who has divorced from her husband, can aggregate, can either get a pension based, if she has never had contributions of her own.....

HON J J BOSSANO:

That is not the question. The question is, given that at the moment a person that has divorced and remarried has his contributions as a married person counted, including the period when he was formerly married to somebody else, it therefore means that for that period when he was married to somebody else, which is now going to be counted for the first wife, it is already being counted for the second wife. Is that correct?

HON CHIEF MINISTER:

Yes, the beneficiary, in other words, the person seeking to benefit from the previous spouse's contribution, can aggregate her own contributions in respect of which a period..... No, I have understood the question, now let me answer it. She cannot claim credit in respect of her previous spouse's contribution in respect of a period in which she has her own

contributions. Then the question is not relevant to the Bill. Put it again.

HON J J BOSSANO:

My question, which I will now repeat for a fourth time, is in the light of the explanation given by the Minister, from what I know of social insurance elsewhere, the position is that when there is a situation where a contributor is married more than once, then the time that the person was married to one person counts towards the benefit of that person and then the time that person is married to someone else, counts towards the benefit of that second person. My understanding is that we are not doing that in this Bill here in the House, which is the standard system that exists elsewhere. What we are doing is that somebody who is a pensioner today, under the existing law, all the years of contributions count toward the spouse's pension based on the husband's contribution. Not just for the period of the marriage but throughout, so if it is somebody who gets a full pension, gets a married couples rate but the wife does not have to have been married with him from day one. Therefore, my question is, am I correct from this explanation that has been given of the way we are doing it here, that in fact, somebody that 20 years ago was married to somebody who subsequently divorced and consequently does not get the benefit of the husband's contribution because of the divorce, those husband's contributions have been paying a spouse's pension for somebody else, in the case of a second marriage. What we are going to be doing here is, that because we are allowing the first wife to claim this benefit retrospectively, even though it has been counted already for the pension of somebody else. In fact, the years of a person that is married and divorced and remarried get counted twice if he is married twice, and presumably, more than twice if he is married more. That is the correct interpretation.

HON CHIEF MINISTER:

Yes, of course. If the contributor marries again, there is a period in respect of which that man's one contribution will subsidise the pension paid to two women, his previous wife and his current wife. Yes. But there was a third point. There was, not able to claim before 1st July; counted twice, and I then put here, no backed, but I cannot remember what the point was.

HON J J BOSSANO:

Why it was retrospective to 1st July and not retrospective further back?

HON CHIEF MINISTER:

I see. Can I just say for the avoidance of doubt, when he stood up to repeat his question for what he said was a fourth time, which was actually the third and not the fourth, he said that he was speaking of the case of a woman who is a pensioner today. Let us be clear, this legislation does not apply only to people who are pensioners today. It also applies to people who become pensioners in the future. I just say that, I am not suggesting that he meant differently.

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 SOCIAL SECURITY (OPEN LONG-TERM BENEFITS SCHEME) (AMENDMENT) ACT 2007

HON J J NETTO:

I have the honour to move that a Bill for an Act to amend the Social Security (Open Long-Term Benefits Scheme) Act so as to make provision for use of a former spouse's contributions, 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, rather than make a repetition of my previous speech on the issue of the provision of the use of a former spouse's contributions, given that both things are identical, could it be taken as recorded in Hansard and thus save everyone from having to listen to the same sort speech I gave in the second reading of the previous Bill? 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 MEDICAL (GROUP PRACTICE SCHEME) (AMENDMENT) ACT 2007

HON MRS Y DEL AGUA:

I have the honour to move that a Bill for an Act to amend the Medical (Group Practice Scheme) Act, 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, Part 3 of the Act currently deals with the Scheme Pharmacists Board and provides for, inter alia, the appointment of the Board and the procedure it must follow. The Government has taken a policy decision to do away with the concept of a Scheme Pharmacists Board to which pharmacies that wish to join the Scheme must apply. The Government is of the view that membership of the Scheme cannot continue being a closed shop. At present, a person who wants to open a pharmacy must (1) obtain a trade licence; and (2) apply to the Scheme Pharmacists Board to become a Scheme Member, in order to be able to dispense prescriptions issued under the Scheme. Therefore, a situation can arise whereby an applicant who satisfies the requirements and criteria of the Trade Licensing Authority, is granted a trade licence and proceeds to invest money in opening a new pharmacy, may find himself not being able to dispense prescriptions issued under the Scheme, because the Scheme Pharmacists Board may reject the application. It is the Government's view that if there is any justification in limiting the number of pharmacies in Gibraltar, this should be done at the time of registration and not when applying to become a Scheme member. The Government has decided to introduce a new regime, whereby a pharmacy registered in Gibraltar would be allowed to participate in the Scheme,

provided it complies with the requirements of new regulations being drafted. Mr Speaker, the first step in implementing this new regime is to replace the current Part 3 of the Act with a new Part 3 set out in the Bill. The new Part 3 gives the Minister the power to make regulations providing for Scheme pharmacists, and provides for all those things set out in paragraphs (a) to (h) in the new section 11. The second step will be to replace the current Medical Group Practice Scheme (Pharmaceutical Services) Regulations with new regulations, which will set out the standards and requirements pharmacies need to meet to participate in this Scheme. Finally, I would like to give notice that at Committee Stage I propose to move an amendment to clause 1 of the Bill, the reference to “2007” should be replaced with “2008”. I commend the Bill to the House.

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

HON J J BOSSANO:

I would like some clarification as to whether this will affect the agreement that there is between the pharmacies and the Government, in terms of pay for the prescriptions. That is to say, as I recall, one of the arguments about limiting the number was that the pharmacies argued that if there was going to be more competition and more people sharing the health service prescription cake, then the cake would have to be bigger. Is that still a problem or has that problem been overcome?

HON MRS Y DEL AGUA:

No, the Bill that amends the actual Act does not affect what the hon Member has just described, and nor will the regulations that will be made under the Act.

HON J J BOSSANO:

My question is, given that the purpose of the exercise, as has been explained by the Minister, is that instead of there being a fixed number of participants in dispensing health service prescriptions, as I recall the argument about the fixed number, was that in the negotiation between the Government and the dispensing chemists, a fixed number was arrived at on the basis of the amount of money that would be available as a result of the prescription charges in the health service budget. Certainly, on more than one occasion the argument was used that if more people were allowed to share in that market, then the margins would have to be increased. I am asking whether that is something that has been a factor in this in terms of Does it mean that the Government will now have to provide more money because there are going to be more?

HON MRS Y DEL AGUA:

No, that is not the case.

HON CHIEF MINISTER:

I think implicit in the philosophy of this legislation is the fact that one statutory tribunal, the Trade Licensing Tribunal, says “yes you can have a trade licence to be a pharmacy”, thereby declaring that the needs of the community are not already satisfied. So somebody relying on that licence sets up a pharmacy, goes to the expenditure and then applies to another statutory tribunal to participate in the Group Practice Medical Scheme to dispense Health Centre prescriptions, and gets told by that other Board that he cannot be a member of the Group Scheme because the needs of the community are already satisfied. Well, it is just a nonsense, so the Government wants to look at that altogether and that really is, not that there is any need to have added that to the explanation that the Minister made, but it is just highlighting the point.

Question put. Agreed to.

The Bill was read a second time.

HON MRS Y DEL AGUA:

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

Question put. Agreed to.

THE COURT OF APPEAL (AMENDMENT) ACT 2007

HON D A FEETHAM:

I have the honour to move that a Bill for an Act to amend the Court of Appeal Act, be read a first time.

Question put. Agreed to.

SECOND READING

HON D A FEETHAM:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is consequential on the fact that the Governor no longer acts in his own discretion in relation to matters to do with the appointment of the Judiciary, and now has to act in accordance with the advice of the Judicial Service Commission. Clause 2 of the Bill, amends section 7 of the present Court of Appeal Act. Section 7 currently reads: "the Governor may appoint a Registrar and such other officers as may from time to time appear necessary for the administration of the Court of Appeal." The new section 7 will read: "the Governor, acting on the advice of the Judicial Service

Commission, may appoint a Registrar of the Court of Appeal." Finally, I would like to give notice that at Committee Stage I propose to move an amendment. In clause 1 of the Bill, the reference to "2007" should be replaced with a reference to "2008". 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 D A FEETHAM:

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 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 Social Security (Closed Long-Term Benefits and Scheme) (Amendment) Bill 2007;
2. The Social Security (Open Long-Term Benefits Scheme) (Amendment) Bill 2007;
3. The Medical (Group Practice Scheme) (Amendment) Bill 2007;
4. The Court of Appeal (Amendment) Bill 2007.

THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) (AMENDMENT) BILL 2007

Clause 1

HON J J NETTO:

Mr Chairman, as I have indicated in my letter which I circulated, in clause 1 the first reference to “2007” should be replaced with “2008”.

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

Clause 2

HON J J NETTO:

In relation to clause 2(3) which inserts a new section 12A of the Act, which is subsection (7), is amended by deleting “(8)” and replacing it with “(6)”.

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 SOCIAL SECURITY (OPEN LONG-TERM BENEFITS SCHEME) (AMENDMENT) BILL 2007

Clause 1

HON J J NETTO:

Once again, as indicated in my letter, in clause 1 the first reference to “2007” shall be replaced with “2008”.

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

Clause 2

HON J J NETTO:

Once again, in clause 2 which inserts a new section 18A to the Act, subsection (7) is amended by deleting “(8)” and replacing it with “(6)”.

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 MEDICAL (GROUP PRACTICE SCHEME) (AMENDMENT) BILL 2007

Clause 1

HON MRS Y DEL AGUA:

In this clause the reference to “2007” should be replaced with “2008”.

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

Clause 2 – was agreed to and stood part of the Bill.

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

THE COURT OF APPEAL (AMENDMENT) BILL 2007

Clause 1

HON D A FEETHAM:

I move to amend in clause 1 so that “2007” should be amended to read “2008”.

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

Clause 2 – was agreed to and stood part of the Bill.

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

THIRD READING

HON CHIEF MINISTER:

I have the honour to report that:

1. The Social Security (Closed Long-Term Benefits and Scheme) (Amendment) Bill 2007, with amendments;
2. The Social Security (Open Long-Term Benefits Scheme) (Amendment) Bill 2007, with amendments;
3. The Medical (Group Practice Scheme) (Amendment) Bill 2007, with an amendment;
4. The Court of Appeal (Amendment) Bill 2007, with an amendment,

have been considered in Committee and agreed to, and I now move that they be read a third time and passed.

Question put.

The Social Security (Closed Long-Term Benefits and Scheme) (Amendment) Bill 2007;

The Social Security (Open Long-Term Benefits Scheme) (Amendment) Bill 2007;

The Medical (Group Practice Scheme) (Amendment) Bill 2007;

The Court of Appeal (Amendment) Bill 2007,

were agreed to and read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, despite the presence in the Order Paper of a fifth Bill, I have the honour to move that the House do now adjourn sine die.

Question put. Agreed to.

The adjournment of the House sine die was taken at 3.15 p.m. on Thursday 24th January 2008.