

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

The Third Meeting of the Eleventh Parliament held in the Parliament Chamber on Thursday 3<sup>rd</sup> April 2008, 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 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

**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 5<sup>th</sup> December 2007, were taken as read, approved and signed by Mr Speaker.

**COMMUNICATIONS FROM THE CHAIR**

**MR SPEAKER:**

Yes, earlier in the week I took the view that one of the questions submitted by the Hon Fabian Picardo last Thursday for oral answer by the Government during the present meeting of Parliament, offended against Standing Order 17(1)(iv) which reads, I quote, “the right to ask questions shall be governed by the following rules, as to the interpretation of which the Speaker shall be the sole judge. A question shall not contain any argument, inference, imputation, epithet or ironical expression”.

Erskine May, at page 346 of the 23<sup>rd</sup> Edition, 2004 Edition, advises, “questions which seek an expression of opinion or which contain arguments, expressions of opinions, inferences or imputations, unnecessary epitaphs or rhetorical, controversial, ironical or offensive expressions are not in order.” Standing Order 17(2) provides, “if the Speaker is of the opinion that any question of which a Member has given notice to the Clerk, infringes any of the paragraphs of this Order or is in any other respect inadmissible as not complying with the rules of the Parliament or as constituting an abuse of the right of questioning, he may direct that it be returned to the Member concerned as inadmissible”.

Far from simply directing the Clerk to return the question as inadmissible, I wrote to the hon Member and caused to be delivered to him by the Gentleman Usher a letter setting out my reasons for exercising my powers under Standing Order 17(2). Erskine May further advises at page 343, I quote, “when a question has been refused and the Member concerned wishes to make representations to the Speaker on the matter, the practice is for these to be made privately to the Speaker and not raised by way of Point of Order in the House.”

The hon Member wrote to me later that day not to make representations but to express his disagreement with my decision. We spoke over the telephone shortly after I received his letter and we ended a very cordial conversation agreeing to disagree. While the hon Member is entitled to consider himself at liberty to inform the news media that in the light of my ruling he will not be asking the particular question after all, it is regrettable that contrary to his own recognition that “Parliamentary procedure provides that he has no alternative but to accept my ruling”, he should have chosen to air his dissent in the news media quoting extensively from our respective letters.

The Parliamentary practice that I have quoted from Erskine May is derived from the proposition, “the Speaker is the final authority as to the admissibility of questions”, and that is taken from Erskine May at page 342 and is aimed at ensuring that the

Speaker does not have to enter into a discussion of his decision in the House, let alone in the news media, some components of which are content to describe this difference of opinion as a row or a storm where none exists. For the record, I do not row with hon Members who I have sworn to serve.

When I was first appointed to this distinguished office three and a half years ago, I pledged to uphold the dignity of the House, a commitment I was happy to renew upon my re-appointment a few months ago. I believe that that objective can be best achieved by my strict adherence to the Parliamentary practices and traditions that have evolved over the centuries at Westminster, as expounded by Erskine May. I would be grateful if all the hon Members of this august body were to assist me by doing likewise.

## **DOCUMENTS LAID**

### **HON CHIEF MINISTER:**

I have the honour to lay on the Table the Annual Accounts of the Government of Gibraltar for the year ended 31<sup>st</sup> March 2007.

Ordered to lie.

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

I have the honour to lay on the Table:

1. The Report and Audited Accounts of the Gibraltar Health Authority for the year ended 31<sup>st</sup> March 2005;
2. The Report and Audited Accounts of the Gibraltar Health Authority for the year ended 31<sup>st</sup> March 2006;
3. The Report and Audited Accounts of the Gibraltar Health Authority for the year ended 31<sup>st</sup> March 2007.

Ordered to lie.

**HON E J REYES:**

I have the honour to lay on the Table the Report and Audited Accounts of the Gibraltar Sports and Leisure Authority for the year ended 31<sup>st</sup> March 2007.

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 31<sup>st</sup> March 2007, has been submitted to Parliament and I now rule that it has been laid on the Table.

**ORAL ANSWERS TO QUESTIONS**

The House recessed at 5.15 p.m.

The House resumed at 5.35 p.m.

Oral Answers to Questions continued.

**ADJOURNMENT**

**HON CHIEF MINISTER:**

I have the honour to move that the House do now adjourn to Friday 4<sup>th</sup> April 2008, at 10.30 a.m.

Question put.            Agreed to.

The adjournment of the House was taken at 7.55 p.m. on Thursday 3<sup>rd</sup> April 2008.

**FRIDAY 4<sup>TH</sup> APRIL 2008**

The House resumed at 10.30 a.m.

**PRESENT:**

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

**GOVERNMENT:**

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 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 P R Caruana QC - Chief Minister  
The Hon J J Holliday – Minister for Enterprise, Development and  
Technology and Deputy Chief Minister  
The Hon C G Beltran – Minister for Education and Training

**IN ATTENDANCE:**

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

**ORAL ANSWERS TO QUESTIONS (CONTINUED)**

**ADJOURNMENT**

**HON J J HOLLIDAY:**

I have the honour to move that this House do now adjourn to  
Monday 7<sup>th</sup> April 2008, at 9.30 a.m.

Question put.           Agreed to.

The adjournment of the House was taken at 2.15 p.m. on Friday  
4<sup>th</sup> April 2008.

**MONDAY 7<sup>TH</sup> APRIL 2008**

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 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 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 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

**ABSENT:**

The Hon J J Netto – Minister for Family, Youth and Community Affairs

The Hon C G Beltran – Minister for Education and Training

The Hon S E Linares

**IN ATTENDANCE:**

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

**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 the laying of accounts on the Table.

**DOCUMENTS LAID****HON J J HOLLIDAY:**

I have the honour to lay on the Table:

1. The Report and Audited Accounts of the Gibraltar Electricity Authority for the year ended 31<sup>st</sup> March 2005;
2. The Report and Audited Accounts of the Gibraltar Electricity Authority for the year ended 31<sup>st</sup> March 2006;
3. The Report and Audited Accounts of the Gibraltar Electricity Authority for the year ended 31<sup>st</sup> March 2007.

Ordered to lie.

**ORAL ANSWERS TO QUESTIONS (CONTINUED)****WRITTEN ANSWERS TO QUESTIONS****MR SPEAKER:**

May I take this opportunity to record my appreciation to the Hon Fabian Picardo for acceding to my often expressed request that questions which seek largely statistical information might invite written answers. I am most grateful to the hon Member. Perhaps he would encourage his colleagues to do the same.

**HON CHIEF MINISTER:**

I have written to Mr Speaker as Leader of the House, tabling the Government's written answers to the questions submitted, or rather submitting the written answers to the questions submitted by the hon Member.

**HON C A BRUZON:**

With Mr Speaker's permission, before we finish with questions, would it be possible for Mr Speaker to allow me to go back to an answer which the Chief Minister gave me for clarification purposes?

**MR SPEAKER:**

To what question.

**HON C A BRUZON:**

Question No. 278 concerning Albert Risso House and Waterport Terraces.

**MR SPEAKER:**

Yes, I have no objection to one supplementary.

**SUSPENSION OF STANDING ORDERS**

**HON E J REYES:**

Mr Speaker, 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.

**MOTIONS**

**HON E J REYES:**

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

“This House resolves that the Honorary Freedom of the City of Gibraltar be conferred upon the Scouts Association (Gibraltar Branch) in recognition of its dedication to the development of the Scout Movement in Gibraltar over the last 100 years, and for instilling a sense of responsibility, duty and respect for others among the youth of Gibraltar over those years”.

As I say in the motion, the Gibraltar Branch of the Scouts Association are celebrating this year their 100<sup>th</sup> anniversary of being established in Gibraltar. The Government believe, and hope the whole House will agree, that it is an appropriate opportunity to confer this honour on them as part of their centenary celebrations. On 31<sup>st</sup> August 1907, General Baden-Powell led an experimental camp held at Brownsey Island off Poole in Dorset. This event gave birth to the now worldwide scout movement. Gibraltar prides itself in being the first boy

scout unit to be set up outside the British mainland since it formed the first patrol in March 1908. This first patrol established in Gibraltar soon grew into a boy scout troop made up of four such patrols. The troop was registered as the 1<sup>st</sup> Troop and was fortunate to later obtain the patronage of the then Prince Louis of Battenburg who subsequently changed his title to that of Marquis of Milford Haven and whose coat of arms is still worn on the scarves of the troop today. A 2<sup>nd</sup> Troop was founded in Gibraltar in August 1910 by members of the Eastern Telegraph Company, later to become Cable & Wireless. In 1910 we saw the appointment of the Boy Scout Commissioner, namely, Major Pedley, who very ably led and inspired the boy scouts groups within the Gibraltar Branch until his sad passing away in 1937. In addition to having a Commissioner, the Governor has held the position of Chief Scout in Gibraltar continuously since 1910. The 3<sup>rd</sup> and 4<sup>th</sup> Scout Troops were formed in 1913 when the Boys Brigade was disbanded locally and their officers and boys transferred into the boy scout movement. Further growth in the number of scouts resulted in a 5<sup>th</sup> Troop being founded in 1914. During the Great War, Gibraltar's boy scouts rendered valuable services as messengers, signallers, they assisted in the manning of lookouts and even helped with the handling of war casualties who were landed in Gibraltar for further medical treatment. A good number of older boy scouts joined the Gibraltar Volunteer Corps and this even resulted in the Scout Masters of the 3<sup>rd</sup> and 4<sup>th</sup> Troops being commissioned as officers in the Corps. After the Great War, scouting in Gibraltar continued to flourish and this eventually led to the formation of the 6<sup>th</sup> and 7<sup>th</sup> Groups, with these two being made up entirely of Wolf Cubs. As a result of the evacuation of women and children from Gibraltar at the outbreak of the Second World War, Gibraltarian scouts formed their own troops in London and even one was formed in Jamaica. Meanwhile, two services rover scout crews were active in Gibraltar itself, and the Governor at the time, General MacFarlane, was an active supporter of these crews. History records that the services rover scout crews performed very valuable services in Gibraltar throughout the duration of the Second World War. The return of Gibraltar's evacuees as from

1944 saw the local boy scout movement take on much of its former enthusiasm. By 1946 scouting was stronger than ever with scouting activities taking place in no less than five different groups. During the next few years, the 1<sup>st</sup> Group amalgamated with the 4<sup>th</sup> and a new Sea Scouts Group and the 8<sup>th</sup> Gibraltar Air Scout Group were also formed. Since the commencement of scouting in Gibraltar one hundred years ago now, the Gibraltar Branch has been represented at eight World Scout Jamborees, 16 Jamborettes, which are smaller events than jamborees, and over 20 other international Scout Camps. The last major international outing took place last year with Gibraltar being represented at the 21<sup>st</sup> World Scout Jamboree. This last jamboree marked the centenary of the founding of scouting and over 40,000 scouts from 110 different countries attended. A group of seven old scouts from Gibraltar visited this last World Jamboree and they participated in a special three day event organised for survivors of the Jubilee Jamboree held in 1957. Gibraltar Scouts have over the years not only camped in various countries but they have also played host to many international scouting visitors. In its own centenary year, the Gibraltar Branch of the Scout Movement continues to have flourishing scout groups made up now of beaver colonies, cub scout packs, scout troops and explorer scouts. In addition to these, there is a headquarter unit providing support for the local branch as a whole. The local movement has a properly constituted executive committee, who are elected annually, and composed of both lay and uniformed members. Mr Speaker, few institutions have for a longer period of time had a greater impact on more of our citizens in successive generations than scouting has had. It is worth noting that despite changes that have taken place over the years, the old scouting ethos still survives. That is, the scout promise, the scout law and the aims of scouting. The spirit remains very much as Baden Powell intended all those many years ago, and it is with considerable pleasure that I commend this motion to the House.

Question proposed.

**HON J J BOSSANO:**

Yes, I can confirm that we will be voting in favour of the motion moved by the Hon Minister and that, in fact, we agree entirely with the expressions that he has used to describe the contribution that has been made in this 100 years to Gibraltar. It is, of course, always quite incredible the number of occasions when we come across Gibraltar institutions that have spread out of the UK to find that we are the first ones of the post and that we are the first Overseas Territory that actually followed the lead of the United Kingdom in these areas. I think that is part of the explanation of why we tend to feel ourselves closer to the UK than some other territories that are further away. In this respect, of course, Gibraltar scouting, over 100 years in Gibraltar has maintained an element that is very much a part and has been a part of the Gibraltarian way of life, which is of giving to society and of giving freely of one's time. The number of organisations that exist in Gibraltar would not be possible in a community as small as ours, without people being willing to devote many hours of what would otherwise be their leisure time, to doing something for the community in many of these movements, and scouting is of course a particularly important one because it tends to make young people, at a very early age, conscious of the importance of the community in which they are and of the contribution that they have to make to help that community and to do things for others. I know the scouts are very proud of the fact that they do not want to depend on handouts and that they earn their keep, as it were, and that is part of their values. But of course, in keeping with the high regard we have for the movement and in giving them in this House the only accolade that we can give them, I would also say to the Government that there should be a very clear message that the support of the House is there to ensure that they have the resources to be able to continue this valuable work in the future, and to give them whatever support may be required in whatever way it may be required. We are very happy to be able to associate ourselves with this motion.

Question put.

The House voted.

The motion was carried unanimously.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE SUPREME COURT (AMENDMENT) (BULGARIA & ROMANIA) ACT 2007**

##### **HON D A FEETHAM:**

I have the honour to move that a Bill for an Act to amend the Supreme Court Act in order to partly transpose Directive 2006/100/EC of the 20<sup>th</sup> November 2006 adapting certain Directives in the field of freedom of movement of persons by reason of the accession of Bulgaria and Romania and for connected purposes, 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 transposes Part 2 of the Annex to Council Directive 2006/100/EC of 20<sup>th</sup> November 2006 adapting certain Directives in the field of freedom of movement of persons by reason of the accession of Bulgaria and Romania. Part 2 of the Annex to Council Directive 2006/100/EC specifically amends Directive 77/249/EEC of 22<sup>nd</sup> March 1977 to facilitate the effective exercise by lawyers of freedom to provide services, and to Directive 98/5 of 16<sup>th</sup> February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was

obtained. See Part 2 of Directive 2006/100/EC. The draft Bill thus reflects the new status of Bulgaria and Romania as Members of the European Union and provides for lawyers with Bulgarian or Romanian qualifications to practise in Gibraltar. Mr Speaker, at this stage I give notice that at Committee Stage I will be moving an amendment, a minor technical amendment, two in fact, one to change the date at paragraph 1 of Clause 1 of the Bill, from 2007 to 2008 in the title to the Bill. Then, in relation to Clause 2(a)(i), speech marks after subsection (4) and then after Schedule in that same paragraph, the words “and in definition of European lawyer” delete “and subsection (3)”. ”

Mr Speaker, the draft Bill amends the Supreme Court Act as follows. Clause 2(a)(i) amends section 41(1) in order to amend current references to subsection (4) to refer to Part 3 of the Schedule. Clause 2(a)(ii) substitutes for the existing references to subsection (3), references to Part 3 of the Schedule. Clause 2(a)(iii) deletes subsection (3), which contains a list of Member States and professional titles. After the amendment, the list will appear in Part 3 of the Schedule to the Act. Clause 2(b) inserts a provision to amend the Schedules by regulation in order to give effect to European law, the aim of this is to make it less cumbersome to amend the legislation in the event of any future accessions to the EU or the changing of a professional qualification in a European Union State. Clause 2(c) amends Part 1 of the Schedule in order to insert the relevant Bulgarian and Romanian qualifications in relation to Directive 77/249/EEC as amended, and to place the entries into alphabetical order. Clause 2(d) inserts a new Part 3 of the Schedule as a substitute for existing section 41(3) in order to insert the relevant Bulgarian and Romanian qualifications in relation to Directive 98/5/EC. It also inserts the relevant professional title in relation to the previous accession to the EU by Poland and other States in 2004, which appears not to have been done. This short Bill ensures that lawyers with Bulgarian or Romanian qualifications will be able to practise law in Gibraltar in the same way as lawyers from other Member States of the European Economic Area. 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 today.

Question put.                      Agreed to.

**COMMITTEE STAGE**

**HON CHIEF MINISTER:**

I have the honour to move that the House do now resolve itself into Committee to consider the Supreme Court (Amendment) (Bulgaria and Romania) Act 2007, clause by clause:

**THE SUPREME COURT (AMENDMENT) (BULGARIA & ROMANIA) BILL 2007**

**Clause 1**

**HON D A FEETHAM:**

I move an amendment to the year “2007”, which should read “2008” in the second line of clause 1.

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

**Clause 2**

**HON D A FEETHAM:**

I move an amendment to clause 2(a)(i), in the fourth line there should be a speech mark after subsection (4). In addition, to insert the words after Schedule, “and in the definition of “European lawyer” delete “and (3)”.”

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.

**THIRD READING**

**HON CHIEF MINISTER:**

I have the honour to report that the Supreme Court (Amendment) (Bulgaria and Romania) Bill 2007 has been considered in Committee and agreed to, with amendments, and I now move that it be read a third time and passed.

Question put.

The Supreme Court (Amendment) (Bulgaria and Romania) Bill 2007, was agreed to and read a third time and passed.

**ADJOURNMENT**

**HON CHIEF MINISTER:**

I have the honour to move that the House do now adjourn to Tuesday 27<sup>th</sup> May 2008 at 2.30 p.m. I give due and fair notice to the Opposition Members that I am going to try and hold the Budget Session this year sooner than in recent years, and that

the Budget debate, the debate on the Appropriation Bill may take place on or around that day.

Question put.           Agreed to.

The adjournment of the House was taken at 1.50 p.m. on Monday 7<sup>th</sup> April 2008.

## **TUESDAY 27<sup>TH</sup> MAY 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,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism  
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 documents on the Table.

Question put.           Agreed to.

## **DOCUMENTS LAID**

### **HON CHIEF MINISTER:**

I have the honour to lay on the Table:

1. The Statement of Supplementary Estimates No. 1 of 2007/2008;
2. The Gibraltar Annual Policing Plan 2008-2009, as required by the Police Act.

Ordered to lie.

**HON J J NETTO:**

I have the honour to lay on the Table:

1. The Annual Report and Audited Accounts of the Elderly Care Agency for the year ended 31<sup>st</sup> March 2005;
2. The Annual Report and Audited Accounts of the Elderly Care Agency for the year ended 31<sup>st</sup> March 2006;
3. The Annual Report and Audited Accounts of the Elderly Care Agency for the year ended 31<sup>st</sup> March 2007.

Ordered to lie.

**HON L MONTIEL:**

I have the honour to lay on the Table the Quarterly Employment Statistics for the period January to March 2008.

**HON G H LICUDI:**

Mr Speaker, if I may ask something in relation to this particular paper? Can the Government confirm whether this is a new practice on behalf of the Government to lay on the Table the quarterly statistics? I can confirm that we have already received this. We receive this on a quarterly basis and we were

wondering if we were going to receive it still on a quarterly basis, or it was going to be laid before Parliament from now on.

**HON L MONTIEL:**

Well, we have been following past practice on the matter.

**HON CHIEF MINISTER:**

My understanding is that these things were sent by the Minister to the Opposition Spokesman and then, at some point in one recent meeting of the House, there was some issue about whether it was done formally or informally. I do not remember what the outcome of that was, and someone, I do not know who, has seen fit to table it. I think no harm is done to table as well as send to the Opposition Members, because it means it gets on to Hansard and on to the record of the House, but I do not think this is necessarily intended by the Minister as a substitute for sending the information. I think it is in addition to.

**HON G H LICUDI:**

Mr Speaker, I am grateful for that clarification. My understanding is that the practice in the past is that this has been added to Hansard as if it were answers to written questions. The Chief Minister will remember that in the first meeting we had of this Session in December, I actually tabled as oral questions all these questions and I was reminded of the practice that this was sent on a quarterly basis. The only concern I have, I have no difficulty, certainly, in this being tabled before the House, but if this does not become a public document until it is tabled in the House, then it might prevent us from using the information either in press releases, or in preparing questions, which are published in advance, even though it might not be published. It has not been a requirement in the past and we would be restrained on that basis, and I do not want it to be a

practice in the future that we cannot use the information until and unless it is laid before the House. My understanding is that these quarterly statistics are never laid before the House. That is why I was wondering whether this was a new practice and what the reason for that was.

**HON CHIEF MINISTER:**

Well, I am only speculating myself because I cannot explain to the hon Member who has caused the Minister to lay this on the Table and why. So I can only explain to the hon Member what my intentions would be. Clearly, it is not intended and it is not acceptable that it should be any trap. It is not intended that this should somehow curtail the hon Member from using publicly any information that he is provided sooner than this. So, if the basis on which the information has been provided in the past is that he is free to use it publicly as soon as he gets it from the Minister, then there is no change to that standing arrangement.

**HON G H LICUDI:**

Can the Chief Minister then confirm that there will be no change in the practical arrangement that this will continue to be provided quarterly and we will not have to wait until the House?

**HON CHIEF MINISTER:**

Mr Speaker, I can say the same thing in as many different versions as the hon Member wants me to. I have said that this is not instead of being sent to him, and I have also told him that it does not change the arrangement whereby he can use it publicly as soon as he has said it. I mean, repetition does not add to the reliability of what I say.

Ordered to lie.

**HON E J REYES:**

I have the honour to lay on the Table:

1. The Report and Audited Accounts of the Gibraltar Heritage Trust for the year ended 31<sup>st</sup> March 2006;
2. The Report and Audited Accounts of the Gibraltar Heritage Trust for the year ended 31<sup>st</sup> March 2007.

Ordered to lie.

**HON E J REYES:**

Mr Speaker, I wish to correct a piece of statistical information contained in the Gibraltar Sports and Leisure Authority Annual Report for 2006/2007, which was Tabled in Parliament on 3<sup>rd</sup> April 2008. I apologise for the erroneous information which came about due to a simple typographical error. In order to ensure that the correct information is available to all Honourable Members, and also for the record, it will now be necessary and I request Members to delete page 4 of the tabled Gibraltar Sports and Leisure Authority's Annual Report for 2006/2007 and replace this with the new page 4 which, I believe, the Clerk has kindly distributed. The correct information is in respect of the Sports and Leisure Authority staff structure as it stood on 1<sup>st</sup> April 2006.

**MR SPEAKER:**

I have the honour to report that in accordance with Standing Order 12(3) the Ombudsman's Annual Report for the year ended 31<sup>st</sup> December 2007 has been submitted to Parliament and I now rule that it has been laid on the Table.

## **HON CHIEF MINISTER:**

Sorry, I do apologise for that interlude, it is just that we were having a thought that the error might actually be somewhat different. That is, somebody might have intended to send to the House for tabling the annual Employment Survey, which I think we normally send in before the Budget debate, for which this would be the last opportunity. We were all surprised to find this on the Order Paper and it may be that somewhere in the bureaucracy somebody has made the mistake and tabled the Quarterly Statistics instead of. In any event, I do not know whether we shall have an opportunity to table the Employment Surveys between now and the Budget Session next week. If we have not, in any case, I will have them circulated formally tomorrow morning.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE FINANCIAL SERVICES (MONEYLENDING) (AMENDMENT) ACT 2008**

## **HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to amend the Financial Services (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, the greatest part of this Bill relates to changing the improved vesting powers particularly powers that are contained in the Act already. So, for example, there are references to the Governor and to the Financial and Development Secretary, which are replaced respectively by references to the Minister and the Financial Secretary. It also ensures that the responsibility for the exercise of executive powers under this Act is vested in the Minister responsible for finance. Section 2 of the Act carries out an amendment which is a particular amendment that we wish to bring about, in addition to inserting a definition of the word "Minister". Also in the definition of "moneylender", at (e), introduces the words "anybody corporate for the time being exempted from this Act or any provision thereof by order of the Minister". So, in addition to introducing the "Minister" there instead of the "Governor", who is the person who in the present Act has the power to exempt from the application of the Moneylending Act, there is also the addition of "or any provision thereof". At the moment (e) says, "any body corporate from the time being exempted from this Act by order of the Governor". That has raised the concern that one could either be exempted from the whole Act or from none of it, allowing apparently, no discretion to disallow provisions from a part only of the Act, specific provisions as opposed to the whole. That is what that amendment to (e) is intended to achieve. Section 4 of the Act gives the power to set a maximum rate of interest. That rate is currently set by the Governor and under the Bill this power will vest instead in the Minister with responsibility for finance. Sections 5 and 6 of the Act, set out the basic licensing arrangements. At present, under the licensing arrangements for moneylenders, the Financial and Development Secretary issues and generally administers the licences. But before he can do so the applicant must obtain a certificate from the Magistrates' Court. This certificate, essentially, attests that they are a fit and proper person to carry

out the trade. The changes under the Bill are that the role of the Financial and Development Secretary will now be exercised by the Financial Secretary and the certificate will be issued by the Minister with responsibility for finance, subject to a right of appeal on a point of law to the Supreme Court. In other words, the process of obtaining a moneylenders licence no longer involves as part of the initial licensing procedure, an appearance in front of the Magistrates' Court to prove that one is a fit and proper person. But if the Government makes a decision against one, that one is a fit and proper person, then one has a right of appeal against that decision to the Courts. The Financial and Development Secretary becomes Financial Secretary, necessitating changes to sections 5 and 19, which are as set out in the Bill and those are consequential. Given all the changes in nomenclature and other amendments that I have just referred to, there are consequential amendments required to the Moneylending Rules, and in a novel drafting technique, the draftsman has chosen to do it in the Act rather than in subsequent amendments to the regulations. Anyway, so be it. So under clause 3 of the Bill, the amendments are as follows. Under the amended rule 2, any person intending to apply to the Minister, previously the Magistrates' Court, for a certificate under section 6 of the Act, must lodge with the Financial Secretary, previously the Clerk to the Justices, a statement in the form set out in Schedule 1. Under the new rule 3, it will no longer be necessary to advise the Commissioner of Police of an application. Ending the involvement of the Magistrates' Court means that rule 6 is revoked. For this proviso for applicants to proceed as though a complaint were being made to the Commissioner of Police in opposition. This is now clearly redundant and the remaining terminology of Schedule 2 are consequential changes to the terminology of the rules. Mr Speaker, the principal amendments that the Government wished to achieve was the transferring of the powers from the Governor to the Minister, but also this introduction which relates to a specific case of a company that has just set up in business in Gibraltar, to provide funding for companies in the local economy that required exemptions from certain parts but not all of the Act. Finally, opportunity has been taken to modernise the Act by

getting away from the somewhat old-fashioned procedure, whereby the Courts are involved at first instance in deciding who should be licensed as a moneylender and who should not. 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 BUREAUX DE CHANGE (REPEAL) ACT 2008**

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

I have the honour to move that a Bill for an Act to repeal the Bureaux de Change 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 Bill does nothing more than repeal the Bureaux de Change Act. The Act, which currently regulates the

licensing and regulation of bureaux de change, will be replaced by a number of regulations which the Government will be publishing shortly, and which will form the basis of a new system of regulating and licensing bureaux de change and money transmission businesses. The regulations are, and the hon Members will note that the Bill does not come into effect until 90 days after publication, that is to give an opportunity to publish the new regulations first, those regulations that will emerge are the Financial Services (Investment and Fiduciary Services) Regulations; the Financial Services (Money Services Business Transitional Provisions) Regulations; the Financial Services (Fees) (Amendment) Regulations; and the Financial Services (Licensing) (Amendment) Regulations. Mr Speaker, bureaux de change are currently licensed in Gibraltar by a Licensing Committee established under section 5 of the Bureaux de Change Act, in accordance with the provisions of the Bureaux de Change Act. The new regulations already referred to by me, will provide a new system for the licensing of bureaux de change and introducing licensing requirements for money transmission businesses. Under the new regime, bureaux de change and money transmission businesses will be licensed and regulated by the Financial Services Commissioner under the Financial Services (Investment and Fiduciary Services) Act. So in other words, the reason why we are repealing the Bureaux de Change Act is that we are moving bureaux de change and money transmission businesses into the mainstream of financial services, where they will be licensed and regulated by the Financial Services Commission and not by some other bit of Government under this dedicated and historical Bureaux de Change Act. These regulations, hon Members will see, although it is not directly germane to the Bill, contain provisions to avoid disruption to existing bureaux de change businesses, which are already licensed under the Bureaux de Change Act and, indeed, existing money transmission businesses. In order to strike a balance between the needs of existing businesses to avoid disruption to their business, and the duties of the Financial Services Commissioner to regulate such business in Gibraltar, the following scheme is established by the regulations that are to be published.

Bureaux de change which are currently licensed under the Bureaux de Change Act, as well as existing money transmitters, will need to apply to the Financial Services Commission to be licensed under the new provisions. They will have six months from the coming into force of the new regime, to make their application. If they do so, they will be issued with a provisional licence free of charge. The Commissioner will then consider the application and will grant a full licence if the licensing conditions have been complied with. No licence, however, can be refused by the Financial Services Commissioner to an existing business. In other words, he cannot de-licence an existing business without the agreement of the Minister with responsibility for finance. In other words, it is a double mechanism. They presently do business under the Bureaux de Change licence, they have to apply within six months, if they apply within six months they will get a transitional, provisional licence. The Commissioner then looks into them, makes sure that they are carrying out their business under the terms required by the new statutory regime for bureaux de change and money transmission business. Theoretically, therefore, if an existing business refused in time to fall into line with the new regime, the Financial Services Commissioner could revoke the licence, despite the fact that he had one under the Bureaux de Change Act. In order to provide a second protection from a decision of the Financial Services Commissioner, such that might create disproportionate commercial consequence to anyone who found themselves in that position, the Financial Services Commissioner cannot exercise the power to revoke the licence of an existing licence holder without the consent of the Minister with responsibility for finance.

Under the Financial Services (Fees) (Amendment) Regulations, which is one of the set of four that will be published, existing businesses will be exempt from the licence application fee and for existing bureaux de change, the first annual licence fee shall be reduced proportionately in respect of any part of the financial year during which they were already licensed under the Bureaux de Change Act. In other words, a transitional arrangement for fees too.

Mr Speaker, just a small point, the explanatory memorandum to the Bill refers to the Financial Services (Investment and Financial Services) Act, the reference should, of course, be to the Financial Services (Investment and Fiduciary Services) Act and should be changed accordingly. That is just a typing error. I commend the Bill to the House.

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

**HON F R PICARDO:**

Yes Mr Speaker, as with the earlier Bill on which I did not speak, there is support from this side of the House for the changes that are being proposed. The change from the Magistrates' Court and from the Committee to the relevant licensing authorities, either in the Financial Services Commission or in the earlier case, to the Minister for financial services. But in relation to this particular Bill, we note that the explanatory memorandum states that it is accompanied by regulations amending the Financial Services (Investment and Financial Services) Act, with the change the Chief Minister has referred to, and associated secondary legislation. Unfortunately, the Bill has not been accompanied by those regulations, and apart from the explanation that the Chief Minister has given today, we are unable to judge the new regime for ourselves without having seen those regulations. So in the circumstances, although there is support for the principle that the Chief Minister has put to the House, we cannot at this stage vote in favour of the Bill without seeing the regulations. So we will be abstaining on this Bill for that reason.

Question put.            The House voted.

For the Ayes:            The Hon C G Beltran  
                                 The Hon Lt-Col E M Britto  
                                 The Hon P R Caruana

The Hon Mrs Y Del Agua  
The Hon D A Feetham  
The Hon J J Holliday  
The Hon L Montiel  
The Hon J J Netto  
The Hon E J Reyes  
The Hon F J Vinet

Abstained:              The Hon J J Bossano  
                                 The Hon C A Bruzon  
                                 The Hon N F Costa  
                                 The Hon Dr J J Garcia  
                                 The Hon G H Licudi  
                                 The Hon S E Linares  
                                 The Hon F R Picardo

The Bill was read a second time.

**HON CHIEF MINISTER:**

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

Question put.            Agreed to.

**THE INCOME TAX (AMENDMENT AND MISCELLANEOUS PROVISIONS) ACT 2008**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to amend the Income Tax Act and to make provision for the commencement of certain rules made for the purposes of section 41A of the Income Tax 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, the purposes of the Bill are simple and twofold. Firstly, to domicile for all purposes the administration of this legislation and its various statutory provisions and discretions in the Minister with responsibility for finance, which is one of the new constitutional creations. There are still, in the Income Tax Act, certain provisions which create discretion and power in favour of the then Minister for Trade and Industry, and all of those amendments. Clause 2, therefore, deals with transferring all aspects of the administration of the Income Tax Act, which is primarily a public finance raising piece of legislation, to the Minister with responsibility for finance following his creation in the new Constitution. That takes care of clauses 2 and 3. Clause 4, is the second purpose of the Bill and that is to give by primary legislation retrospective effect to the amendments introduced last year, following my Budget address last year, to the Category 2, Category 3 and Category 4 Individual rules that were introduced, to give effect to the announcements that I made in the Budget. Some of those rules had the effect, because they were not published until after 1<sup>st</sup> July but were retrospective to 1<sup>st</sup> July, some of those rules, therefore, theoretically had a notional, no, not a notional, had a retrospective, albeit by not very long, taxing for some people, tax increasing I should say effect. Under the applicable legislation, taxation cannot be introduced retrospectively, except by primary legislation. It cannot be introduced retrospectively by subsidiary regulations and, therefore, this Bill gives retrospective effect just to the start of the financial year of 1<sup>st</sup> July in which we announced during the Budget, to the Categories 2, 3 and 4 which the hon Members will remember we abolished, had to do before we increased the tax of Category 3 and things of that sort. I commend the Bill to the House.

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

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

On the point simply, at this stage, of the retrospectivity that we are seeing in clause 4, I understand why the Chief Minister has explained that we are making these rules. He will recall that last year, meaning the financial year 2007/2008, the Government introduced a measure to lower stamp duty. That measure was first announced in the Chief Minister's speech in, I think, late June or early July last year, the Budget was late, but the legislative changes were only brought in, in the calendar year 2008. There, the retrospectivity given to those rules was much shorter. I seem to recall that it was actually from the moment that the Bill was published that the new stamp duty rules took effect. A lot of people who had bought property after the Chief Minister's speech but before the legislation, believed that they would be covered by the new rules rather than the rules as they were existing at the time. Now, remember, I brought this matter up in the House and the Chief Minister, and I think rightly as a matter of law said, the law is the law as it is until it is changed. In this instance, in order to ensure that the revenue raising measure referred to the Chief Minister's speech and provided for in the rules, is entirely provided for, by primary legislation, we are giving this retrospective primary effect to the rules. Would the Chief Minister reconsider whether it is possible to make good the loss to those people who incurred the higher level of stamp duty, in place before his speech in 2007, and before he changed the rules in 2008, given the fact that these rules are being made. I know that those rules were designed to make stamp duty lower for those of lesser means, and in effect, it is those of lesser means who were not able to take advantage of the new rules that came in from the date of the change of the legislation in 2008. Mr Speaker, given that we are less than seven days away from the Chief Minister rising to give us his financial predictions for the coming year, the good parts and the bad parts of touching on the revenue and expenditure of the Government, he might want to consider that at this stage.

### **HON G H LICUDI:**

Mr Speaker, on a related point in relation to clause 4 of the Bill, the question of the Qualifying Individuals Rules, which are 2008 rules. As I heard the Chief Minister a few moments ago, he indicated that rules were introduced in 2007 after 1<sup>st</sup> July but with retrospective effect from 1<sup>st</sup> July 2007. It was realised that retrospective taxation could not be introduced except with primary legislation, and that is what this Bill does. Can the Chief Minister then confirm what actually happened to the 2007 rules? I have not checked it myself so I do not know whether they are still in place or whether they have been repealed. Can the Chief Minister also confirm that these are new rules published in 2008 to replace the old ones? Thirdly, can the Chief Minister confirm, if the old rules have been considered to be essentially null and void, or of nil effect, how taxation has been applied since July 2007 under this new regime.

**HON CHIEF MINISTER:**

Well, the points raised by the Hon Mr Picardo do not arise from a consideration of this Bill and have nothing to do with it, relating as they do to stamp duty. I do not feel inclined to respond to something that has absolutely nothing to do with the subject matter of the Bill in question. Insofar as the points raised by Mr Licudi is concerned, it was not a question of it being realised, it was understood that this would be the case, as I am sure the hon Member if he paused to think will know that there has been a lot of publicity. He is aware that there are new rates of tax for Category 2, which are the HNWIs, the Category 3, which is the old REPPS which has now in effect been frozen and closed off and replaced by something called HEPPS, and that Category 4 has been abolished, again closed to new membership and the existing members are on a grandfathered benefit but subject to a higher rate of tax. All that has been effective and in operation since 1<sup>st</sup> July. The view has not been taken that it is otiose. Remember that most of these people do not actually pay tax until the end of the tax year and would not actually have paid anything yet. So, by legislating today retrospectively to 1<sup>st</sup> July,

we cover the legal lacunae without any question of voidness or invalidity of charge to tax arising. Actually, the Government's view is that even if there had been a charge to tax retrospectively under subsidiary legislation, this would correct it retrospectively, because what the House is legislating today is that those regulations are deemed to have come in as of 1<sup>st</sup> July. So that anything that happened between 1<sup>st</sup> July and today which might between 1<sup>st</sup> July and today have been insufficiently legislated, possibly even ultra vires, ceases to be ultra vires, even in respect of that period as of today, because as of today we are curing it with effect from 1<sup>st</sup> July. But the issue does not arise.....

**HON G H LICUDI:**

Will the Chief Minister give way for a moment? I understand what the Chief Minister is saying in respect of curing whatever defect may have been, but these are actually termed 2008 regulations. Can the Chief Minister say whether these are new regulations which replace the old ones? If not, why are they 2008 regulations?

**HON CHIEF MINISTER:**

Well, it may be, no. This is not a new set of regulations, this is the set of regulations, so then they were not issued shortly after 1<sup>st</sup> July, they were issued early in the new year or sometime in the new year. These are the regulations that gave effect to the budget measures that I announced, measures that I announced in the Budget and which I have just very quickly sketched for him as to their principal effects. So this is not a new set of regulations over and above those. I am sorry, I misunderstood his original question. These are the same ones.

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 SUPPLEMENTARY APPROPRIATION (2007/2008) ACT 2008**

**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 31<sup>st</sup> 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, this Bill as the Long Title and, indeed, the explanatory memorandum attached to it suggests, is to raise additional monies for the service of the year just ended, 31<sup>st</sup> March 2008. Honourable Members hopefully will have had some time during early May the Statement of Supplementary Estimates No. 1 of which seven days notice prior to today had to be given, but as we had it earlier than that I hope they got it more than seven days ago, which will give the hon Members the main details of the purposes to which the money is put and why. Of course, this is in addition to the use of the £6 million supplementary funding provision, which was estimated in the budget and which will be the subject, unfortunately, they have just been given to me in final draft form. I have not seen them

before, at 2 o'clock and I just did not feel that I could just sign them and bring them in and table them, but they will have Reallocation Warrants No. 1 and No. 2 in the next day or so and before the Budget address, so that they can see how the £6 million in the supplementary funding provision, the £6 million that we approved in last year's budget was allocated. They will also, hopefully at the same time, get this Warrant No. 3 which will give them details of how virements have been made between subheads in the various Heads of the Consolidated Fund. Hon Members, particularly the new ones, may not be aware of what this procedure is. Under the Public Finance (Control and Audit) Act when the House votes under one of the subheads in the Schedule to the Budget, the Government can transfer monies where it is not needed to where it is needed within a Head, that is to say, between subheads of a Head but not between Heads. The transfer of money, called virement, between subheads is done by warrant, now the Financial Secretary, so there is a whole series of sub subheads where money was left over but in a, perhaps, three lines up on the same page there was some money missing, so the spare money from elsewhere on the page, so to speak, were used for the purposes of some other item. Also on the page, I am using the word "page" loosely to mean Head obviously not page, the Head can be split into many pages, that is what this does and it shows how the Government then has moved money around within some Heads to mop up money not needed to make up for over-expenditure in areas where more was needed than was provided, and that is permitted by the rules. Different, are these other two allocations. Hon Members will know that every year in the Budget, we vote something called the supplementary funding provision. In effect, saying to the money, in addition to all this money that I am voting for the specific areas that I am told that they are needed, we the House give the Government a pot of £6 million which they can spend in any of the established Heads, not on anything else obviously, but it has got to be spent on one of the Heads that already exist in the budget, and please come back and tell me later how it was done. That is done by a Warrant and so they will be getting two Warrants in the next day or two setting out details of how the Government have allocated

that £6 million. Mr Speaker, of the Supplementary Appropriation Bill itself, the £8.4 million additional expenditure required in the Consolidated Fund, hon Members will see that the two principal Heads are, as always, the two most difficult to control in terms of expenditure. That is to say, the Government's subvention to the Gibraltar Electricity Authority, it will be seen that we approved just between us just over £4 million a year ago, yet during the last 12 months we have had to pay them £8.4 million. The principal reason for that is the inexorable rise in the price of oil, means that without them having so far increased their electricity tariffs, they have had a significant funding shortfall which the Government have so far made up. Also, they have some lower than estimated receipts from commercial works and from the collection of electricity arrears. The other one, which is perennial in documents of this sort, is the Gibraltar Health Authority, where certain of their services are demand-led, prescription medicine, sponsored patients, which not only rise in cost but rise in volume and invariably come out at more than is estimated. Those are the main ones under the Consolidated Fund.

Clause 3 of the Bill also seeks £10.5 million additional contribution by the Consolidated Fund to the Improvement and Development Fund. Although it is confidential and the hon Members cannot allude to it publicly, but as they will have seen from their study of the Schedules to the main Appropriation Bill for next year, the Government was not able to fund its Improvement and Development Fund programme for last year from the sources it had intended. It had intended to fund much of it from the proceeds of sale of properties, those sales did not materialise as we had expected before 31<sup>st</sup> March, and therefore the funding had to be provided from an alternative source, namely, by increasing the amount provided from the Consolidated Fund reserve. So, because payments from the Consolidated Fund reserve have to be approved by this House, there is this supplementary funding request for £10.5 million from the Consolidated Fund to the Improvement and Development Fund, to pay for the projects that we approved last

year but which have not been able to be funded from the proceeds of sale of Government properties.

Finally, clause 4 seeks the appropriation of this House for a £3 million increase in expenditure from the Improvement and Development Fund in respect of a Head for which only a token amount was provided in the budget last year. That was this Central Public Administration and Essential Services Vote. This £3 million relates to a payment made by the Government in settlement of a very, very long standing situation going back many, many years. Since, in fact, before the Williams Way fuel depot closed, whereby at that time the Government was not happy to see Gibraltar's strategic fuel reserve closed down. Shell and Cepsa indicated to the Government that they had no commercial intention or need for a strategic reserve facility. The Government, nevertheless, asked them to keep it open and we have settled on this, being an amount of compensation, for keeping that facility as a strategic fuel reserve for Gibraltar open over a number of years, going back, actually, to 1996 and indeed they claim earlier but I do not think so, I think this is something that started on our watch. But immediately when they gave us notice that they wanted to close Williams Way. That was something for which there was a token provision and it has now been settled in the sum of £3 million, which has been paid and for which supplementary provision is now required. Mr Speaker, I commend the Bill to the House.

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

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

On the last point that the Chief Minister has made about the strategic reserve, he has explained that this is money that has been paid in compensation. Well, obviously, in voting this money we are voting for £3 million that has been paid to somebody but we do not know how it is that this has been computed or how valid the amount is, or if it is a good deal or a

bad deal. Therefore, I do not think we can simply say, well look, simply knowing in whose pocket the money has finished is sufficient to make Parliament vote it. I can tell the Chief Minister that my recollection before 1996 is that what was intended was to set up a strategic reserve which was going to be financed by a levy on the fuel, and the negotiations were with the companies who were going to manage it. The explanation we have been given today is, apparently, that they claim that they have been incurring costs since 1996 which they had no need to incur for commercial reason and which they have been incurring because the Government have wanted them to do it. Now, does that mean that the £3 million are the costs that they have incurred since 1996 and there are going to be continuing costs in the future because we are still going to have a strategic fuel reserve? Or does it mean that we are no longer going to have a strategic fuel reserve and, therefore, there are no further costs after this? I think we would like, perhaps, not now, but maybe the Chief Minister can include something on this when he addresses the House in the Budget, if it is not something he has not got readily available, the details. But exactly what the £3 million, how it is that figure has been arrived at. We shall be voting in favour of the Bill but I think I just want to put it on the record that we are not happy to simply vote £3 million without knowing how it got to that figure.

On the question of the amount that has been transferred to the Improvement and Development Fund, I am not very sure whether I understood from the explanation of the Chief Minister, that the Bill in fact is going to be amended to increase the figure to £12.5 million, because in fact, the Supplementary Appropriation Bill says £10.5 million but the Schedule has £12.5 million as being transferred, with a footnote explaining that since the Bill was brought to the House, the amount required has increased because a payment expected before the end of the financial year has been received after the end of the financial year. Now, it seems to me that if the Supplementary Estimates Schedule shows an amount of £12.5 million, with a note (a) under Head 15 explaining at the bottom why the figure is now £2 million higher, then the £2 million must also appear in the Bill, I

would have thought. I do not see how we can have one thing in this part and something else here. Presumably, if we do not transfer it, it will simply mean that at the end of the financial year, in theory, the I&D Fund will be £2 million in the red but then in April, presumably, the money will come in and I imagine that must mean that the financial year starting 1<sup>st</sup> April will actually show receipts higher than needed for the expenditure of this financial year, to meet the shortfall of the last financial year. But I would have thought one of these two pieces of paper needs changing. The other thing I would like to ask in relation to that is that the increased £2 million is because of a delay in the amount received, which was expected before 31<sup>st</sup> March and has now been received after 1<sup>st</sup> April. Of course, the failure to achieve the amount presumably is not due to delay in payments then. The failure is due to the fact that less property has been sold than intended. I take that to mean given that one thing is mentioned and the other one is not.

Finally, on the question of the health service contribution to recurrent expenditure, in the amount that we provided last year, the Chief Minister during the course of the Committee Stage of last year's budget, identified that the amount that was being included in the budget included a specific requirement of the things that the Government wanted the Gibraltar Health Authority to obtain during the course of the year. Is it that that has happened or is it that in fact the money was needed for something else and even more has been needed on top? I think at the time, when we had a debate at Committee Stage on this particular vote, the Chief Minister listed the things that they were hoping the Gibraltar Health Authority would spend the money on but acknowledged that they might have a need suddenly for that money for something else. I would like to know whether one or the other has happened.

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

Yes, well just starting with that last point then. I do not recall what it was I said to him in the Committee Stage to which he is

referring, but I do remember that I set out, either I or the Minister, some of the service improvements that we were looking at. I think it had things like a diabetes service, a dental service, the breast cancer screening service and things of that sort. If that is what the hon Member is referring to, then most of those have been spent in the sense that the recruitment and the equipment that was necessary to staff those services have been incurred. I cannot tell the hon Member exactly where the service delivery actually is, but in almost all of those areas there has been a fair amount of preparation which has required involving..... So the extra money has not come, the extra expenditure has not come at the expense of those additional services. The Gibraltar Health Authority budget is normally relatively disciplined, actually, except in some areas. They were traditionally two, and those were sponsored patients and prescribed drugs, and they are the main culprits again this year. There are also issues around recruitment levels, establishment levels and what happens to money whilst people are not in post, do they employ temporary labour. So as the hon Member will see when we discuss the budget, there is the issue of potential over-expenditure by the GHA for the first time under the payroll head. We will come to that in the budget but that is not what explains or requires this particular supplementary appropriation.

I confirm that the failure to raise enough capital to fund the Improvement and Development Fund from assets from property sales, both in the original sum and in the increased £2 million odd, is not due to anybody not completing, it is just that the sales programme itself has fallen behind and has simply not produced the volumes that were required. I agree with him that the Bill and the Schedule are inconsistent. No one has told me that I need to move an amendment to the Bill. I suppose that there is somebody in the Treasury, listening as we speak, hoping that he can get through to me before I sit down if it is an amendment. I do not know whether the safest thing might be to, I am just trying to remember what it says in the Budget book. Is there a copy of the Estimates Book there? The Budget book, to which we are not supposed to be referring in public, is consistent with the Schedule and not the Bill. So I suspect that

somebody has updated the figure on the Schedule and has forgotten to prompt me to move an amendment. I am therefore grateful to the hon Member for spotting this for me. Therefore, I would propose that we move an amendment to increase that to £12.5 million to avoid the alternative, which is what he has himself explained, which is that we just end the year with the I&D in deficit. But if anything that I should now be saying is wrong, then the £2.5 million of course will not be spent and will just, I suppose, does not have to be drawn. The fact that it is appropriated does not mean that it has to be drawn. So it does not mean.....

**HON J J BOSSANO:**

We are well past the 31<sup>st</sup> of the month.

**HON CHIEF MINISTER:**

Exactly, it does not need to be spent. So, on that basis, I hope the hon Members will be willing to agree to an amendment to the Bill to make it consistent with the Schedule to it.

On the question of the £3 million payment to Shell and Cepsa, I will of course provide information to him on the build-up of that amount of money. As to whether it is a good or a bad deal, of course, different people will form a different view and no doubt he will take it up with me, as is his job. But we think, if you accept that the Government was right in insisting that they carry on running it in the first place, which of course is something on which he could have taken a different view from day one, then the amounts, the quantum is less than they spent running this facility, enjoying no revenue from it. It is not still running, Williams Way was dismantled, so this is a historical situation which has not been building up. But I will tell him the date when it stopped building up, it was several years ago. The strategic fuel reserve at the moment is not being provided but will be provided in one of two ways. Part of the new airport

infrastructure involves the laying of a tank farm on the north apron, and there are provisions there for a strategic reserve of the gas oils and things that are burnt in the desalination plants and in the power stations. Also, the Government has, I think, at the time announced at the time of the MOD deals, the Government is in discussion with the MOD, for the possible take over of the King's Lines fuel depot. That is still subject to a detailed negotiation, which has not yet finished, and if that happens then there will be the possibility for a further strategic reserve of the things that Gibraltar consumes in there as well. So that is how it would be hopefully provided in the future. There is no strategic fuel reserve at the moment since this arrangement was stopped.

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.

#### **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 documents on the Table.

Question put.            Agreed to.

#### **DOCUMENTS LAID**

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

I have the honour to lay on the Table:

1. The Air Traffic Survey Report 2007;
2. The Hotel Occupancy Report 2007;
3. The Tourist Survey Report 2007.

But apparently not the Employment Survey. So they will have to wait on tenterhooks for that for a few minutes longer.

Ordered to lie.

#### **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 Financial Services (Moneylending) (Amendment) Bill 2008;
2. The Bureaux de Change (Repeal) Bill 2008;
3. The Income Tax (Amendment and Miscellaneous Provisions) Bill 2008;
4. The Supplementary Appropriation (2007/2008) Bill 2008.

**THE FINANCIAL SERVICES (MONEYLENDING)  
(AMENDMENT) BILL 2008**

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

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

**THE BUREAUX DE CHANGE (REPEAL) BILL 2008**

**Clauses 1 and 2** – stood part of the Bill.

**The Long Title** – stood part of the Bill.

**Explanatory Memorandum**

**HON CHIEF MINISTER:**

In line 2, delete the words “(Investment and Financial” and replace with the words “(Investment and Fiduciary”.

**THE INCOME TAX (AMENDMENT AND MISCELLANEOUS  
PROVISIONS) BILL 2008**

**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 SUPPLEMENTARY APPROPRIATION (2007/2008) BILL  
2008**

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

**Clause 3**

**HON CHIEF MINISTER:**

In clause 3(1), delete the figure “£10,500,000” and replace with the figure “£12,500,000”, to make the Bill compatible with the Statement of Supplementary Estimates that relates to it.

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

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

**The Schedule**

**HON F R PICARDO:**

Is it necessary also to amend the reference to “Head 15” in Part 2 of the Schedule to give consistency to the amendment moved by the Chief Minister in clause 3?

**HON CHIEF MINISTER:**

Certainly this year it is Head 16, I have not got last year’s book to see if it was Head 15 last year.

**HON F R PICARDO:**

The point is that the amendment the Chief Minister has made to the amount in clause 3, is also reflected in the Schedule as Part 2 as being £10.5 million.

**HON CHIEF MINISTER:**

Yes. So the amendment is not to make clause 3 compatible and consistent with the Schedule, with which it already is consistent, but rather with the Statement of Supplementary Estimates submitted in support of it.



**HON F R PICARDO:**

To amend clause 3 and the Schedule.

**HON CHIEF MINISTER:**

Yes. Well because the Schedule is there and it says “£10.5 million”. Yes, I think the hon Member is right, it should be amended.

**HON F R PICARDO:**

Then, of course, there is the Explanatory Memorandum although I do not think we need to amend that. That is done and dusted.

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.

### **THIRD READING**

**HON CHIEF MINISTER:**

I have the honour to report that:

The Financial Services (Moneylending) (Amendment) Bill 2008;  
The Bureaux de Change (Repeal) Bill 2008;  
The Income Tax (Amendment and Miscellaneous Provisions) Bill 2008;  
The Supplementary Appropriation (2007/2008) Bill 2008,

have been considered in Committee and agreed to, with amendments, in the case of the Supplementary Appropriation Bill, and I now move that they be read a third time and passed.

Question put.

The Financial Services (Moneylending) (Amendment) Bill 2008;  
The Income Tax (Amendment and Miscellaneous Provisions) Bill 2008;  
The Supplementary Appropriation (2007/2008) Bill 2008,

were agreed to and read a third time and passed.

The Bureaux de Change (Repeal) Bill 2008.

The House voted.

For the Ayes:	The Hon C G Beltran
	The Hon Lt-Col E M Britto
	The Hon P R Caruana
	The Hon Mrs Y Del Agua
	The Hon D A Feetham
	The Hon J J Holliday
	The Hon L Montiel
	The Hon J J Netto
	The Hon E J Reyes
	The Hon F J Vinet

Abstained:	The Hon J J Bossano
	The Hon C A Bruzon
	The Hon N F Costa
	The Hon Dr J J Garcia
	The Hon G H Licudi
	The Hon S E Linares
	The Hon F R Picardo

The Bill was read a third time and passed.

**HON CHIEF MINISTER:**

Mr Speaker, the Employment Survey has not arrived in time for me to formally Table it for the adjournment, so I will have them circulated informally through the Clerk tomorrow.

**ADJOURNMENT**

**HON CHIEF MINISTER:**

I have the honour to move that the House do now adjourn to Tuesday 3<sup>rd</sup> June 2008 at 2.30 p.m. and that will be the Budget session.

Question put.                      Agreed to.

The adjournment of the House was taken at 3.55 p.m. on Tuesday 27<sup>th</sup> May 2008.

**TUESDAY 3<sup>RD</sup> JUNE 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,  
Technology and Transport and Deputy Chief Minister

The Hon Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism

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 documents on the Table.

Question put.                      Agreed to.

## **BILLS**

### **DOCUMENTS LAID**

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

I have the honour to lay on the Table:

The Consolidated Fund Supplementary Funding – Statement No. 1 of 2007/2008;

The Consolidated Fund Pay Settlements – Statement No. 2 of 2007/2008;

The Consolidated Fund Reallocations – Statement No. 3 of 2007/2008;

The Improvement and Development Fund Reallocations – Statement No. 1 of 2007/2008.

Ordered to lie.

#### **HON L MONTIEL:**

I have the honour to lay on the Table:

The Employment Survey Report for the period ended October 2007.

Ordered to lie.

### **FIRST AND SECOND READINGS**

#### **THE APPROPRIATION ACT 2008**

#### **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 31<sup>st</sup> day of March 2009, 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 is an honour for me to present my thirteenth Budget and the first of this fourth term, of the Government Revenue and Expenditure, and to report to the House also on the state of the economy and public finances, their prospects and challenges and on the Government's very substantial capital investment programme for the next four years.

Mr Speaker, the economy of Gibraltar remains strong, buoyant and growing at a high but sustainable rate. Public finances were, once again, in a healthy surplus last year. Employment levels, again, broke record levels. Almost all the sectors of the economy had a good year and are poised to have another one. Taxation rates continue to fall significantly for all taxpayers. Each of the GSD's three terms in office have been transformational for Gibraltar and have taken us socio-

economically forward in significant steps and measure, each making Gibraltar more prosperous, increasing our standard of living and enhancing the quality of the legacy that we will leave to future generations. Our fourth term will also be transformational.

A major capital investment programme will address Gibraltar's housing, environmental, traffic and parking and economic issues and needs on a large scale. We will tackle social reform issues; increase home ownership; extend the incidence of occupational pensions in the private sector; and introduce pensions reforms; take measures to underpin the traditional family and protect children; engage with the Trade Unions in an ambitious agenda of qualitative reforms in the public service; and not least, we will continue our investment in further expanding and improving our health, social care and educational services. Our policies will ensure that our economy continues to prosper and grow in the face of changing and sometimes challenging global trends and dynamics, which require us to be alert and willing to change and react.

Mr Speaker, the world faces a number of economic challenges, from some of the effects of which we cannot and will not be totally exempted, but which our economy is better placed than most to face and steer through successfully. These are primarily, the vertiginous rise in the price of oil; the credit crunch that originated in the United States sub prime mortgage market, but which has now affected Western European banking markets as well; and the uncertainty as to whether the world economy will fall into a recession. All of these have an effect on the level of economic activity around the world, and thus on the willingness and ability of people to spend, to invest and to do deals. This, in turn, affects final demand in our economy, especially in the real estate and financial services sectors. Mr Speaker, in Gibraltar we have so far noticed only the effect of the rising oil price and some reduction in the level of structured transactions executed by our international finance centre. Given the extent and longevity of the oil price rise, it is no longer possible to avoid a rise in electricity and water tariffs in Gibraltar.

But it is the Government's intention to continue to subsidise, indeed to increase the extent of the subsidy on electricity and water, by paying for most of the effect of oil price rises on electricity and water production costs, and thus not pass all of these onto the consumer. I will give details of intended tariff rises a little later on in this address. We expect the adverse effect of the credit crunch on the level of business in the finance centre to be temporary and short-lived. Although further adjustments, caused mainly by consolidation and re-organisation may occur, we do not expect or envisage any noteworthy job losses in any sector of the economy as a result of the current worldwide economic scenario.

The Government's economic policy will remain to pursue quality and sustainable economic growth, and thus continue to improve the standard of living of citizens of Gibraltar, through better paid jobs and also through the Government's policy of investing and distributing the fruits of that growth, in improving public services, investing in Gibraltar's physical fabric and amenities, and also in cutting taxation.

In my New Year address this year, I said that I was excited by the opportunity that this fourth term gave us, to bring to fruition the many further ambitious projects that we have been working on in recent years. I said also that this term will see a very major capital investment programme that will take Gibraltar to a new higher level of economic and social development, and assure Gibraltar a modern, prosperous and successful economic, social and thus political future for a very, very long time to come. Our capital investment programme will ensure that Gibraltar becomes and remains a truly modern and successful European society and through that capital projects programme, we will address many of our community's traditional problems, such as, housing, parking, roads and traffic schemes. Many of these projects get underway this year and I will be providing the House later on in this address, with a situation report on these projects and when the tenders for their execution will be awarded.

Mr Speaker, public finances, as I have said, remain in a healthy and robust state. As I said earlier, the Government's budget remains in strong surplus. Public debt has remained static at £93 million, and in the light of continued economic growth, has now fallen to less than 12 per cent of current forecast GDP. As the House will recall from figures that I provided to it last year, this represents a very low level compared to the United Kingdom's level of around 40 per cent, and the European Union's convergence maximum of 60 per cent. This low level of public debt now enables the Government to part-finance its extensive capital investment programme during these next few years, through a raising of public debt. Albeit to still very prudent levels.

At this point in time I would just like to point out to the House, that I will be moving, as I have given notice of in writing, two amendments to the Appropriation Bill. One results and reflects the conversation that we had at the Supplementary Appropriation Bill debate last year, of the difference between £17.5 million and £19 million. Although the booklet states the correct figure, the Bill had already been published and the Bill, therefore, says £19 million when it should be £17.5 million. The other amendment that I bring is to delete the reference in the Bill to "Statutory Benefits Fund" and replace it with "Social Insurance Fund".

Before starting the budgetary review, I would like to bring to the attention of the House some changes that have been made to the presentation of the budget in the revenue and expenditure schedules this year. Some are formalistic; others provide more and better information to the House; others are intended to enable improved coordination, oversight and control of public expenditure. On the first page of each Head, where details of the establishment are provided, there is now a statement of the Minister that has political responsibility for the subject matter of the Head and for the monies therein voted. In the appendices that provide financial information about authorities and agencies, details are now provided for the first time of the establishment of each such body. Although the appendices are not required by

law, it has for some years now been this Government's policy to provide, as far as possible, in the same manner the information that the law requires to be provided in respect of Government departments; the information in relation to agencies such as the Social Services Agency, the Elderly Care Agency, the Electricity Authority; the Health Authority and such like. Providing the staffing information brings the two ways of reporting information to this House closer still into line. Thirdly, the Financial Secretary is now the Controlling Officer of all monies voted under the Improvement and Development Fund. This will enable greater control and coordination of Government's capital spending programme. Fourthly, in Head 101 Departmental of the Improvement and Development Fund, there has been a significant degree of amalgamation into 12 sub-heads, mainly by grouping together provisions for work and capital and works and equipment into one Head. Last year there were 42 Heads, that is now reduced to 12. Each, of course, with their subheads. Head 16 Consolidated Fund contributions, replaces two Heads previously Contribution to Social Insurance Fund and Non-Recurrent Expenditure Reserve. On pages 1 and 2, there is now a breakdown of the expenditure figure into Consolidated Fund charges, Departmental Expenses, and Contribution to Social Insurance Funds. Each Head of expenditure is now uniformly divided into three subheads, personal emoluments, industrial wages and other charges, each with sub-components. Finally, the provision for relief cover in the Education Department, the Social Services Agency and the Gibraltar Health Authority, has now been made in the Supplementary Funding vote in Head 15.

Mr Speaker, the Consolidated Fund revenue and expenditure budget was in surplus last year by £15.1 million. This is broadly in line with the £15.8 million that we had estimated last year at the start of the year. We had estimated that Consolidated Fund revenue would rise by £11.3 million to £223.4 million. In fact, it rose by £19 million to £231.2 million, which is just under £8 million more than estimated. We estimated that Consolidated Fund recurrent departmental expenditure would be £167.6 million plus the £10 million to fund the pensions increase,

making an estimated total of £177.6 million. In fact, that expenditure figure came in at £185.6 million, which is £8 million higher than estimated. The Consolidated Fund charges came in at £30.5 million compared to the estimated £30 million. Thus, although we have struck a Consolidated Fund recurrent budget surplus of £15.1 million, more or less in line with the estimated surplus figure, it was brought home with higher revenue and higher expenditure levels than had been estimated. The Consolidated Fund budget surplus came in at 8.5 per cent of recurrent Consolidated Fund expenditure. Also, the Consolidated Fund reserves contribution to the Improvement and Development Fund was much higher than estimated, because the receipts of that Fund from property sales did not materialise at the levels that had been estimated. In terms of the overall Government revenue and expenditure, which differs from the Consolidated Fund revenue and expenditure, in that it takes into account the total picture, that is to say, including Authorities and Agencies and not just the Consolidated Fund, we had estimated revenue of £273.4 million and expenditure of £257.1 million. So in terms of all the Government's revenue and all the Government's expenditure, whether it is in the Consolidated Fund or in any of the Authorities or Agencies, we had therefore estimated a surplus of £16.3 million. The actual figure came in at revenue of £280.7 million, expenditure at £265.2 million, producing a surplus of £15.5 million, which is equivalent to 6 per cent of overall expenditure. So, £800,000 less than the £16.3 million surplus that we had estimated. Now, comparing the overall revenue and expenditure position year on year, that is, the forecast outturn for last year ending March 2008 with the actual position for the year before, that is the year ending March 2007, in other words, in comparing actual year on year expenditure growth, the position is as follows. Overall revenue increased by £19.5 million in the year, from £261.2 million in 2006/2007 to £280.7 million in 2007/2008. This represents a rise of 7½ per cent, derived mainly from higher income tax receipts produced from higher employment levels, despite last year's deep budget tax cuts. Also, from higher import duty receipts. The main source of the increase in overall revenues were, therefore, income tax which was up £5.4 million;

import duty which was up £7.3 million; stamp duty which was up £1.5 million; gaming tax which was up £1.3 million; airport landing fees which were up from zero to £1.9 million, this is the first year in which the Government received any revenue from that source; and Gibraltar Health Authority receipts, from the Group Practice Medical Scheme, which was up £1.3 million, mainly from an increase in revenue from Social Insurance contributions. There were a couple of expenditure reductions, tax exempt company receipts were down just under £500,000 and motor vehicle licensing was down by £1.3 million following its abolition by the Government in a Budget. Overall expenditure increased year on year, between last year and the year before, by £31.2 million, from £234 million in 2006/2007 to £265 million in 2007/2008. This represents an increase of 13.3 per cent. The main contributors to the year on year overall expenditure increase were as follows: Consolidated Fund charges, mainly pensions and public debt charges, £1.5 million; departmental payroll costs £4.6 million; contracted-out services, £1.5 million; other departmental charges, £4.1 million; the contribution to the Social Insurance Fund, which has been made for the first time last year to pay for the 65.2 per cent increase in old age pensions, £10 million; an increased contribution to the Gibraltar Health Authority, £4.6 million; increased contribution to the Gibraltar Electricity Authority, £2.4 million; increased contribution to the Elderly Care Agency, £600,000; to the Gibraltar Development Corporation, £400,000; to the Social Services Agency, £700,000; and to the Sports and Leisure Authority, £800,000. Accordingly, excluding the £10 million which I have said was first incurred last year to pay for the increase in old age pensions, overall expenditure, that is to say, excluding that, overall expenditure grew in 2007/2008 by £21.2 million or 9.1 per cent. Compared to revenue, which increased in the same period by 7.5 per cent and this higher rise in expenditure than in revenue, of course, explains the reduction in the budget surplus. This demonstrates what I said earlier, that parts of the fruits of our economic growth is spent by the Government in improving and expanding public services, especially the caring services. So, the Health budget increased

by 8 per cent; the Social Services budget by 16 per cent, and the Elderly Care budget by 8 per cent in one year.

Mr Speaker, turning now to the estimates for the current year just started on 1<sup>st</sup> April. For the current year, we are estimating a surplus of £11.3 million in the Consolidated Fund. This is struck on the basis of revenue remaining broadly static at £232 million. The estimated increases, or rather, the increases that we do estimate in revenue from income tax, £4 million; from import duty, £500,000; from rates, £400,000 and from gaming licences, £400,000, are largely likely to be offset, and are estimated to be offset, by reductions in revenue from airport landing fees, given the new arrangements, stamp duties of £1.2 million, because we believe that this last year was an exceptional year which is unlikely to be repeated in the current year, and tax exempt company receipts which we also expect to fall by £800,000 as the deadline for the end of exempt status coverage approaches. Once again, these estimates of revenue may turn out to be on the conservative side, but obviously, we cannot expect growth in employment levels to continue indefinitely at current rates. Nor can we expect import duty receipts to carry on growing at the same rates as they grew last year. Also, we do not believe that the full effect of the impact on annual income tax receipts from last year's budget measures are yet fully reflected in last year's figures for income tax receipts. On the expenditure side, we are estimating departmental expenditure to increase by £3 million from £175.6 million to £178.6 million, an increase of 1.7 per cent. Consolidated Fund charges are being estimated to rise by £1.5 million or 4.7 per cent. Together with the £10 million contribution to the Pension Fund, which is again required this year to pay for last year's pensions increase, this brings recurrent Consolidated Fund expenditure estimated to be this year £220.5 million compared to last year's £216.1 million, an increase of 2 per cent. This is ambitious, indeed, optimistic. There is, however, a supplementary funding provision this year of £8.5 million compared to £6 million provision that we made last year.

Mr Speaker, at the overall level, expenditure is estimated to rise this year by £13.5 million or 5.1 per cent, from £265.2 million to £278.7 million. Overall revenue is estimated to increase by £24.7 million or 8.7 per cent, from £280.7 million to £305.4 million. This figure, however, includes an estimated one off exceptional revenue item to the Consolidated Fund, this year of £17 million, from the Savings Bank the basis of which I shall explain in a few moments, and which has taken below the line in the Consolidated Fund. It is thus not included in the Consolidated Fund revenue and surplus estimates for the year, which I gave a few moments earlier in my address. So, after account is taken of a £1.7 million net reduction in non-Consolidated Fund reserve balances, the overall surplus for the year is thus estimated at £26.7 million a year. But without the exceptional non-recurring revenue item of £17 million, the overall surplus for this year is estimated to come in at just under £10 million or £9.7 million. This compares to the £15.5 million that we achieved this year by way of surplus at the overall level. The main increases in estimated overall recurrent revenue are income tax at £4 million; GPMS contributions, which will be raised and which will raise an additional £3 million; Electricity Authority tariffs which will be raised as well. The main overall recurrent revenue falls are the ones that I have just given in respect of the Consolidated Fund, namely, falling receipts from company exempt tax and motor vehicle licensing, in addition to the GDC's revenue from the training levy, which will be partly diverted as I will explain later.

On the expenditure side the main estimated increases are in the Consolidated Fund which I have already explained. This is on the basis that the expenditure in the Gibraltar Health Authority, the Gibraltar Electricity Authority, the GDC, the Social Services Agency and the Elderly Care Agency, can be contained subject to payroll cost increases at broadly last year's level. History shows that this is an extremely ambitious, nay, unrealistic target and, hence, the higher provision of supplementary funding. For example, in the Gibraltar Electricity Authority, the expenditure on fuel, which is now a major item and accounts for nearly half of the cost of generating electricity, depends on the oil price and it

is impossible in the current situation to gauge the level at which this will settle in the international markets.

Turning to the Improvement and Development Fund in respect of last year. For the year just ended in March 2008, we had estimated expenditure of £39.8 million, we actually spent £31.3 million. The year before that, we had spent £27.5 million. £31.3 million is the second highest annual spend through the Improvement and Development Fund since 1996. The outturn figure of £31.3 million includes two one-off items. These are, a final payment on the new hospital of £5.25 million and a payment of £3 million made to Shell and Cepsa in connection with the provision of strategic fuel reserve facilities at the now defunct Williams Way Depot. Last week, during the debate on the Supplementary Appropriation Bill, the Leader of the Opposition asked me to provide some further explanation of this last item of expenditure and I will now do so.

The Williams Way fuel depot, which constituted Gibraltar's strategic fuel reserve capacity, was operated by Shell and Cepsa Gibraltar in joint venture. In 1997, that is just one year after coming into office, both companies approached the Government and informed it that they had no further commercial use for, or interest in operating the depot and intended to close it. The Government was not at that time content to leave Gibraltar without a strategic fuel reserve capacity, and therefore, asked Shell and Cepsa to keep the depot open. Negotiations then started in relation to the basis of funding for an alternative strategic fuel reserve facility and, in the meantime, the Government's contribution to the cost of keeping Williams Way open, entirely at its request and requirement. Those negotiations concluded, having started in 1997, in the summer of 2007, ten years they took. In fact, Williams Way had already closed in 2003 because it was not possible to keep it open any longer on environmental safety grounds, or health and safety grounds, due to severe and repeated rock falls affecting its entrance and access. During the seven years, that is to say, between 1997 and when it closed in 2003, Shell/Cepsa defrayed all the cost of operating Williams Way. These amounted to £4.4

million. In 2007 the Government agreed to pay £3 million of that. During the debate last week on the Supplementary Appropriation Bill, the issue crossed my mind whether this item of expenditure was appropriately booked to the Improvement and Development Fund, as opposed to treating it below the line in the Consolidated Fund as an exceptional item. I have asked the Financial Secretary to consider this issue again. It is, of course, a purely technical issue because the Improvement and Development Fund was itself funded from that same Consolidated Fund source. So it would not affect the Consolidated Fund outlay for that year. The question is simply whether the item is properly booked to the Consolidated Fund reserve directly or through the Improvement and Development Fund. I will inform the House of the outcome in due course on that question.

The remainder of the £31.3 million was spent mainly on the continuing Government housing refurbishment programme, roads and environmental works, beautification schemes, the new prison and departmental capital expenditure. The main projects covered are, as I have said, the new prison, Varyl Begg Estate re-roofing and refurbishment, Alameda Estate, Orange Bastion and Chatham Counterguard, Fish Market Road and the area of the public market, the new Upper Town road and the refurbishment of Camp Bay, and the replacement of the Europa Road pavements and balustrades. On the revenue side, only £2.5 million materialised last year from property sales compared to the £23 million that we had estimated. Accordingly, the shortfall was met from higher Consolidated Fund contribution. In other words, out of reserves and surplus than had been estimated. In addition to the capital expended through the Improvement and Development Fund, a total of £48.2 million has been expended through the Government companies. The House is aware of the general order of this figure from the reductions in the level of reserves held in the companies, as provided in answers to questions. However, the House is not aware of what the £48.2 million has been spent on through the companies and I will now provide that information to the House.



A total of £18.7 million was spent on the construction of Waterport Terraces, Nelson's View, Cumberland Terraces and Bayview Terraces. There have been and will be further receipts, obviously, from purchasers in respect of the purchase price of apartments once completions take place, but the Government's co-ownership share of flats will ultimately remain as a capital outlay once sales have been completed. £7.9 million was spent in relation to the project and works relating to the new air terminal and associated roads and tunnel works and related MOD airfield demolitions, relocations and reprovision works. £7 million has been spent on the mid harbour reclamation and the Government's rental housing project. £4.3 million on the construction of Willis's Road, New Harbours and Sandpits car parks. £2.9 million on the King's Bastion Leisure Centre. £1.8 million on repair works to Harbour Views, Brympton, Montagu Gardens and Montagu Crescent estates. The remainder, on the retrenchment block project, Government offices relocations and Upper Town refurbishment and other minor capital works. Also, £3 million has been loaned to AquaGib to finance the introduction of new desalination technology.

In respect of the capital expenditure estimated for the current financial year, that is to say, the year just started 1<sup>st</sup> April and ending in March next year, subject to what I say in a moment, this year we are estimating Improvement and Development Fund expenditure of £25 million. This breaks down into £12.2 million of departmental capital expenditure, which includes most of the usual "recurring" capital expenditure Head items. These are all included in Head 101 under the heading "departmental". Head 102, which now contains only central public administration capital expenditure and equipment for essential services, estimates expenditure of £1.7 million. Head 103, sets out all the Improvement and Development funded Government projects. Full provision of £11.1 million is made for the intended expenditure this year on specific projects, and where the project is not intended to complete this year, the balances to complete are shown. These include the following major projects: the OESCO Station sound insulation; elements of the Upper Town regeneration scheme; the finalisation of the Europa Road

pavements and balustrades; the beautification of Main Street south, which has just got underway; the beautification of the public market and its environs; access to the Dudley Ward tunnel road project; and hopefully, the completion or near completion by the end of the year of the new prison. However, and this is what I mean when I said at the start "subject to what I say in a moment", token or very rough estimate provision is made for a variety of reasons for projects which will get underway this year and upon which the Government do envisage incurring substantial expenditure, even though it is not estimated in the Improvement and Development Fund. I will now provide as much information as I can do at this stage on these projects.

Firstly, under Head 103.3(c), a token provision is made for "road improvements and new roads". This sub-head will almost certainly incur significant expenditure in respect of the new frontier access road and tunnel under the runway; the new Trafalgar junction roundabout and traffic scheme, for which the cost has not yet been estimated; and possibly even, the new link road between Europort and Queensway via Coaling Island, which also has not yet been estimated. Secondly, under Head 103.6(g), "new airport terminal building", a token sum is provided even though the Government envisage that the contract will be awarded shortly, so that there will almost certainly be some considerable expenditure this financial year under that sub-head. Thirdly, much the same applies to Head 103.6(h), "new Government rental housing scheme". Finally, Head 103.5, headed "relocations", it seems likely that more than the £1 million that is provided in it, will be spent this year on MOD relocations. The £10,000 for other relocations is also a token provision. It is certainly possible that the sub-head will attract substantial expenditure. The same applies in respect of sub-head (f), "rubbish tip relocations".

Mr Speaker, from the viewpoint of timing in relation to the tender processes and post-tender price negotiation, this Budget session could not have come at a worse time. Tenders for these very substantial projects are at a critical phase. Some are

about to be adjudicated, some are under the process of adjudication and others are under consideration. It is not commercially desirable or advisable to make public statements at this point in time about contract prices or what the Government expect to spend on them. The Government will make full public disclosures just as soon as it is appropriate to do so, including a statement in this House about each project, its contract award and funding proposal, at the very earliest opportunity. By way of justification of that, I would inform the House as follows. The tender for the new air terminal has closed and is under pre-adjudication consideration and discussion. It is scheduled to be awarded in mid-June. Construction works begin in September. Secondly, the tender for the Government rental housing scheme is scheduled to be awarded in the last week of June, or at the latest in the first week of July. Construction will begin shortly thereafter in the autumn. Thirdly, the tender for the new road to the frontier and the tunnel under the runway will be awarded in August and construction works will start in October or November. Fourthly, the tender for the new power station will be awarded in October or November. There can be no doubt that the Government and Gibraltar stand on the threshold of an unprecedented phase of public investment in our City, its infrastructure and amenities. The scale and breadth of this investment programme will truly transform Gibraltar and ensure that it will be a modern, prosperous European city well into the foreseeable future. I suppose Opposition Members want Gibraltar to be transformed into a prosperous European city and be maintained so well into the future. Presumably their failure to join in the celebrations means that they think it can be done another way.

Mr Speaker, some of this investment is required to ensure that our basic infrastructure remains EU compliant, that we meet our environmental responsibilities and are able to satisfy our basic infrastructure needs into the future. In some cases, existing facilities have reached the end of their working life. Into these broad categories fall the new electricity generating station, the new sewage treatment plant, the new refuse incinerator and the upgrading, renewal and extension of our sewers and the

electricity and water distribution systems. Some of the investments address our social quality of life and transport means, such as the affordable housing schemes, the new rental housing estate, the new schools, the new mental hospital, the new roads and tunnel scheme, the new car parks and the new air terminal. Together with the three major private sector developments Ocean Village, Eastside and Mid-Town, which are all underpinned by the Government's investment programme, this capital investment programme will propel Gibraltar into a new phase, a new level of socio-economic prosperity. The funding of this ambitious and exciting programme of investment in Gibraltar's future, will require recourse to the full range and extent of the Government's financial resources, including in combination, the use of reserves, the re-investment of the proceeds of sale of Government property and assets, the use of private finance initiative funding models and an increase in Government borrowing, well within established and accepted prudent borrowing limits.

In his report on the accounts of the Government of Gibraltar for the financial year ended 31<sup>st</sup> March 2007, the Principal Auditor has once again highlighted the growing issue of non-payment of taxes and other monies due to the Government on a timely basis, or worse still, in some instances at all. The Government is now firmly resolved to tackle this issue head on. It is right and fair to all tax payers to do so. In the area of personal and company tax, we will dedicate resources, take measures and introduce legislation to more aggressively and effectively penalise and pursue arrears due, non-compliance with filings and submission deadlines and those who under-declare income. In taking these initiatives we will have due regard to the detailed recommendations of the Principal Auditor. We will similarly focus and take action in other areas of public revenue, such as housing rents, rates and utility charges, which are also afflicted by the problem of growing arrears.

Turning now to intended reforms of the social security system. We have already introduced some reforms to the administrative collection and financial system relating to social insurance

contributions. We have amalgamated the payment of social insurance contributions with the income tax collection system, and we have transferred responsibility for the administration of social insurance contributions, logically, to the Income Tax Office. Thus eliminating some of the administrative burdens on businesses and creating a one-stop shop. In 2007, we introduced a new social insurance contribution system to ensure that low-paid, part-time and casual workers pay significantly less in social insurance contributions. The system imposes contributions at a minimum and maximum rate. The latter being a percentage of salary subject to a cap at the then weekly adult rate. We are now introducing two link reforms to the Government's financial administration of the contributions. Part of the contribution goes towards three different types of statutory benefits. These are, long-term benefits, in other words, old age pensions, short-term benefits, which are mainly unemployment benefit, maternity and death grants, and finally and thirdly, employment injuries benefits. Each of these three types of statutory benefits currently has its own special fund. The Government intends to merge these different special funds into one combined statutory benefits fund. A Bill for an Act to amalgamate these funds is being published this week. This is a financial administrative arrangement only. Entitlement to benefits which are based on statutory right and are not dependant on the availability of monies in each or any of the funds, remain totally unchanged. There is now no point in having different funds for each type of statutory benefit. The combined statutory benefit fund will remain intact and the Government will not access its monies for any purposes except the purposes of the statutory benefit payments themselves. The new statutory benefits fund will be a special fund for the purposes of Part 3 of the Public Finance (Control and Audit) Act. In consequence of the amalgamation of the fund, the contributions will be allocated, that is to say, the social insurance contributions, will be allocated for three purposes. Namely, the Group Practice Medical Scheme, which will initially receive an allocation of 70 per cent of the full contribution, and the Statutory Benefits Fund which will initially receive 30 per cent. The third ingredient is the training levy which will initially receive zero per

cent. Mr Speaker, this explains the second of the amendments to the Appropriation Bill that I have given written notice of. I thought it inappropriate that the Appropriation Bill should pre-empt the existence of the Statutory Benefits Fund. The Appropriation Bill speaks of a contribution to the Statutory Benefits Fund, but of course, the Statutory Benefits Fund does not yet exist. We are about to publish a Bill and I thought it inappropriate to pre-empt the will of this House in its debate on the Statutory Benefits Fund Act. Hence the amendment to delete the premature reference in the Bill to "Statutory Benefits Fund" and revert to the original reference to "Social Insurance Funds".

Moving now to the Gibraltar Savings Bank. The Government is also publishing this week a Bill for an Act to amend the Gibraltar Savings Bank Act. Principally to modernise and bring it up to date with the new Constitution, but also, to release £17 million, hon Members will recognise that £17 million as being the one-off revenue item into the Consolidated Fund that I spoke about half an hour ago, but also to release £17 million of Government money, which is presently and in the Government's view unnecessarily locked up in the bank, and which the Government wishes to invest in the building of the new Government rental housing estates. The House will be aware that even though the deposits of the Savings Bank are by law guaranteed by the Government, the current Act also requires the Government not to remove reserves from the bank, unless assets will continue to exceed liabilities by at least ten per cent. In other words, at present the Government must maintain a ten per cent solvency margin, in addition to the Government's guarantee of the deposits. This has arguably always been unnecessary, but in any event, the idea was to protect the public purse against the first ten per cent fall in the value of any of the bank's investments, such as fixed interest securities, the value of which can fluctuate in the market. In future, the Government intend to achieve the same objective by the alternative method of requiring the assets of the bank to match its liabilities at all times, and by restricting the investment of the assets of the Savings Bank to cash deposits or equivalent, in terms of

protection of the capital value of the funds. In other words, to ensure that the assets of the bank are not exposed to investments whose capital value may fall. This will be provided for in the Act. This will mean that Government will not need to keep £10 of its own money in the bank for every £100 placed in the bank by depositors or bond holders. But the whole of the depositor's £100 will be kept in cash or equivalent. In addition, the new legislation will remove the ability, which has always existed, for the Financial Secretary to lend Savings Bank monies to the Government, thereby also removing that, albeit theoretical risk, to the bank's assets.

Mr Speaker, turning now to Government borrowings. As the House knows, the maximum amount that the Government can owe on borrowings at any given time has been fixed by statute at £100 million since 1988. That is 20 years ago when GDP stood at £208 million. In 1995, Government borrowing stood at £99.3 million and net public debt, that is borrowing minus reserves or sinking funds, stood at £83.1 million. At that time, therefore, that is 1995, GDP stood at £339 million and Government borrowing, that is gross public debt, stood at 29 per cent of GDP. Net public debt stood at 24 per cent of GDP. Today, in 2008, Government borrowing stands at £93 million and net public debt at £43 million. Government borrowing therefore stands at less than 12 per cent of forecast 2008 GDP. Net public debt stands at just 5.5 per cent of forecast 2008 GDP, compared to the 24.5 per cent at which it stood in 1995. The level of public debt, its prudence and affordability are measured in real economic terms by a variety of indicators. The first being public debt as a proportion of the size of the economy. That is to say, the ratio of Government debt to GDP. As I have said, the EU convergence maximum permissible is that public debt should not exceed 60 per cent of GDP. The UK, which believes that it is very prudent and conservative in this respect, has a policy ceiling of 40 per cent of net public debt. Gibraltar's gross ratio is currently below 13 per cent of 2006/2007 GDP. If one assumes just 7 per cent GDP growth in the year ending March 2008, the current debt level is just 11.6 per cent of GDP. Accordingly, as Gibraltar's economy has grown during the last

12 years, without the Government materially increasing public debt, there is now scope for an increase in the debt ceiling without effectively increasing the economic measure of public debt beyond where it effectively was in 1995, and indeed before that. Without violating principles of prudence, conservatism or affordability. In addition, the Government consistently run substantial annual budget surpluses. There is, therefore, plenty of scope for an increase in public debt to assist the Government in partly funding Gibraltar's important capital investments programme. The Government is accordingly this week, publishing a Bill for a Public Finance (Borrowing Powers) Act, which will replace the existing Borrowing Powers Act of 1988. In addition to modernising the legislation in the context of the new Constitution, the new Act will impose a statutory new borrowing limit of the higher of, firstly £200 million, which is effectively around 25 per cent of current GDP, or secondly the lower of 40 per cent of GDP, which would currently be £320 million, or 80 per cent of Consolidated Fund recurrent annual revenue, which would currently be around £256 million. However, regardless of the sum produced by the above formula, the legislation will also contain an over-reaching cap at such sum as the annual interest servicing cost of which does not exceed 8 per cent of Consolidated Fund recurrent annual revenue. That would, at present, yield a debt servicing limit of £18.5 million, taking current levels of Consolidated Fund recurrent annual revenue into account. In addition, public debt will be defined as gross Government borrowing, whereas elsewhere, the ratios are in relation to net public debt.

Mr Speaker, as the House knows, the Government is already constructively engaged with Customs staff and Union representatives in a review that will make the Customs Department as effective, efficient and user friendly as possible, especially to the business community. The process has been proceeding with officials and has now reached the stage where I shall myself be meeting staff representatives during the next few days or in the coming weeks. It is also the intention to review and streamline the employment service process in relation to the registration of employment contracts. Mr Speaker, during the

last year we successfully implemented the MOD ISP secondment model agreement, which enabled the contractorisation by the MOD of ISP to SERCO, to take place in a consensual manner that saved Gibraltar and MOD staff a very considerable amount of dispute, disruption, anxiety and uncertainty, that could only have destabilised our socio-economic landscape. It is the Government's hope and expectation that the negotiations to transfer certain other services from MOD to the Gibraltar Government's control, will similarly result in a socially and economically painless transition into the inevitable new era ahead. During this year we expect to engage with the Trade Unions in a broad ranging dialogue to modernise, reform and improve the public service for the benefit both of taxpayers and employees. The agenda will include such issues as family-friendly employment models and practices, reform of the public sector occupational pension scheme, addressing the very high and unacceptable levels of absenteeism in some parts of the public sector, to which the Principal Auditor has also drawn attention, a review of the antiquated General Orders and the status in terms of long-standing supply workers amongst other strategic issues.

Turning now to the economy in the private sector. The last model of the Gibraltar economy was constructed by Professor Fletcher in the year 2000. Following the further changes in the economy after that year, particularly the rapid growth of the on-line gaming industry, Professor Fletcher has produced a 2007 model update upon which he reported to the Government in November 2007. That model update is very informative and confirms the great stability enjoyed and impressive growth secured by Gibraltar in a number of important areas of its economy, against the backdrop of global economic volatility. Professor Fletcher observes the Gibraltar's economy continuing ability to demonstrate its flexibility and dynamism, reacting to external pressures and opportunities to secure relatively high levels of income and employment opportunities. This is at the very core of Government's economic policy. The 2007 updated model is based on updated data and has undergone a re-aggregation of sectors to better reflect the financial services and

on-line gaming sectors. The on-line gaming sector which in the new model is included in the other services sector. The model shows that as at 2006, percentage of GDP by sector was as follows: manufacturing 1.76 per cent; electricity and water 2.08 per cent; construction 7.71 per cent; wholesale, retail and importers 14.53 per cent; hotels, restaurants and bars 2.64 per cent; transport and communications 6.67 per cent; onshore financial services 5.66 per cent; offshore financial 13.89 per cent; onshore business real estate and professional services 3.82 per cent; offshore business real estate and professional services 5.38 per cent; Government 17.10 per cent; other services, which includes the on-line gaming industry, 15.59 per cent and the MOD now 3.10 per cent. Those hon Members that have been quick enough to take all those figures down and tot them up will already have been quick enough to notice that they do not add up to 100 per cent, as one would expect, because of the rounding of the third decimal point digit. The updated 2007 model also shows that financial services, business and real estate, Government and other services sectors have by far the largest income and employment multipliers. Meaning that for the same amount of increase in final demand they generate more income and more jobs in the economy than other sectors of the economy. This demonstrates the value and quality of these sectors to our socio-economic growth and prosperity. The Government will very shortly be publishing and circulating this model update 2007 report.

Once again, all last year's macro-economic and sector specific indicators show the robustness, stability, resilience and strength of the economy. These are also reflected in continuing sector growth and in continuing internationally investor confidence in Gibraltar, despite the challenging international economic environment. In terms of economic growth, the economy grew in 2005/2006, as hon Members already know, by 9.5 per cent to £656 million, and by a further 12.7 per cent to £740 million in the year 2006/2007. Assuming a growth rate of just 8 per cent in the year just ended, that is to say 2007/2008, the Government forecasts that GDP now stands at over £800 million. For those not familiar with the concept of Gross Domestic Product, that is

the size of the economy of Gibraltar, £800 million. In fact, Government forecast that economic growth last year will come in much more likely at around the 10 per cent mark than the 8 per cent mark, and that this will be maintained during the current year, thus continuing the strong growth trends seen in recent years.

Turning to inflation. The official inflation rate in Gibraltar during 2007 was 2.6 per cent. Our inflation rate is mainly imported through price inflation in the UK and Spain, from which between them we import 80 per cent of our non-petroleum products. There are clear price inflation pressures in things such as petroleum products, food, the cost of money and other commodities. These are working themselves into our local inflation rate. For example, during the first quarter of 2008, the annualised inflation rate, that is to say, the rate from April 2007 to April 2008, the first 12 month period that includes the first quarter of 2008, the inflation rate was running at 3.1 per cent on an annualised rate basis, and that is up from the annualised rate in 2007 of 2.6 per cent, as I have just said. So, clearly, some of the price inflation that we see and read about in the press, oil, food prices and things of that sort, the cost of price of money as interest rates rise in the market, are beginning to drift into our own local inflation rate. As I say, we expect the annual rate to remain above 3 per cent for much if not all of 2008. A drop in interest rates, a weakening of the euro or a fall in the price of oil, all of which are distinct possibilities later in the year, would result in a reduction in these inflationary pressures.

The Retail Price Index Advisory Committee was reconstituted earlier this year, with a view to preparing the groundwork for the new family expenditure survey. The survey will commence in October this year and will be carried out during a 12 month period. As the House will know, the main purpose of the survey is to obtain current information that will define the basket of goods and services that will form the basis for calculating the rates in respect of the Index of Retail Prices.

Turning to employment. Consistently with the strong growth in the economy last year, the number of jobs in Gibraltar grew between October 2006 and October 2007, that is to say, in 12 months, by 1,211 jobs or 6.6 per cent, from 18,485 jobs in October 2006 to 19,696 jobs in October 2007, the highest level, obviously, ever recorded in our economy. A total of 16,688 jobs are full-time jobs and 3,008 jobs are part-time jobs. An additional 195 Gibraltarians were in employment taking the total to 10,541 Gibraltarians in employment, also an all-time record. Although this figure is probably even higher, since some of the 390 growth in the UK/British category probably conceals some Gibraltarians. Employment by sector as at October 2007 stood as follows. Shipbuilding 2003; other manufacturing 2008; electricity and water supply 295; construction 2486; wholesale and retail 2816; hotels and restaurants 1071; transport and telecom 1123; financial intermediation 1889; real estate and professional business 2453; public administration and defence 2252; education 858; health and social work 1561; other services, which as I said earlier includes gaming, 2481, making that new total of 19,696. These figures represent yet another spectacular performance in the number of jobs in our economy. They speak to effective full employment amongst Gibraltarians actively and constructively seeking employment. They also speak to the extent to which the economy of Gibraltar provides socio-economic opportunity to many very welcome guest workers from other countries. Last year there were 3,000 registered workers of Spanish nationality in Gibraltar. This figure is probably higher in practice. Put another way, Gibraltar now generates jobs for Spanish nationals equivalent to more than 4 per cent of the total number of jobs, around 76,000, that exist in the entire Campo area of Spain. To give an idea of the importance and size of the economy of Gibraltar in a regional context, Gibraltar with a population of just under 30,000, accounts for over 20 per cent of all the jobs in the combined economies of Gibraltar and the Campo, despite the latter having a population in excess of 250,000 people. The full breakdown of registered jobs in Gibraltar by nationality is as follows. Gibraltarians 10,541; UK British 3,673, although this figure also probably includes many Gibraltarians; Moroccans 799; Spanish

2,998; other EU 1,221 and others 474. The number of jobs in the private sector increased by 1,049 or 7.2 per cent from 14,512 to 15,561. The number of jobs in the official sector, which includes GoG and MOD, rose by 162 or 4.1 per cent from 3,973 to 4,135. This continues the recent trend of the public sector becoming a proportionately smaller part of the labour market as the number of jobs in the private sector grows much more than in the public sector. The highest job increases were found in the construction and financial services sector. There are 5,438 frontier workers. Meaning, workers who regardless of their nationality, commute to work in Gibraltar from Spain on a daily basis, 5,438.

Mr Speaker, turning to the size of Government. The size and impact of Government on the economy continues to decline as the economy grows. This is evident in various indicators. As I have just said, the proportion of jobs in the public sector is falling sharply in relation to the number of jobs in the economy as a whole. In terms of the ratio of public sector jobs to GDP, the size of the public sector is also reducing. The reduction of the public sector is evidenced in financial indicators as well. The ratio of Government expenditure to GDP continues to fall significantly. It has fallen from 31.5 per cent in 2003, in other words, in 2003 the Government spending amounted to a sum equivalent to 31.5 per cent of GDP. By 2008 it had fallen to 26.9 per cent. In the UK, that ratio is much higher, it is 37.2 per cent of Government expenditure as a proportion of GDP. Similarly, the ratio of Government revenue to GDP is also falling. In 2003, it was 31.4 per cent and by 2008 it had fallen to 27.2 per cent. This reflects the very substantial reductions in taxation rates that the Government have introduced over the last ten years. In the UK, by the way, that ratio is also much higher than it is in Gibraltar, it stands at 37.6 per cent. So, Mr Speaker, these figures show that the Government is not only spending less as a proportion of GDP, in other words, the Government spend is smaller by reference to the size of the economy but, indeed, it is taking less proportionately out of the economy as a proportion of the economy as the economy grows, mainly through a reduction in taxation.

Turning now to the admittedly anecdotal world rankings. Gibraltar's very high socio-economic prosperity is also clear by reference to international yardsticks. The House will be aware of a recent survey which ranked Gibraltar fourth in the world in terms of combined political stability and economic prosperity. In terms of GDP per capita, which is the usual measure of a country's prosperity, we would rank ninth in the IMF world rankings of national economies and tenth in the World Bank's list in respect of 2007 and 2006 figures respectively. In other words, if Gibraltar were a sovereign independent state we would have, according to the IMF, the ninth wealthiest economy on the planet.

Mr Speaker, reviewing the private sector by sectors. Tourism had another good year. Arrivals across the land frontier increased by just under 15 per cent to just under 9 million people. Those arriving by sea increased by just under 30 per cent to just under 300,000 people and those arriving by air, by just under 11 per cent to just under 160,000 people. The overall visitor numbers increased by 15.2 per cent to just under 9,500,000 people. Cruise liner calls rose by 12 per cent or 25 to 227. Cruise line passengers by 63,000 or 30 per cent; hotel nights sold increased by 4 per cent; expenditure by tourists in Gibraltar increased by £20 million or 9.5 per cent to £230 million. Mr Speaker, the tourism ministerial portfolio has now passed to Ernest Britto to link it up to the environment portfolio and also to free up Joe Holliday to focus on the Government's huge capital investment programme. I want to take this opportunity to thank and congratulate Joe Holliday, who has been Gibraltar's best ever Tourism Minister, for the remarkable growth in tourism over which he has presided over the last 12 years. Mr Speaker, given that he has clearly presided over remarkable growth, it is to be noted that the hon Members do not appreciate it. Perhaps they would have preferred there to be less growth so that they could then have accused the Government of performing less well.

The Port continued to grow its business robustly during 2007. Bunkers supplied increased by 13 per cent to just under

4,500,000 tones. The number of ships calling at Gibraltar increased by 7 per cent to 9,600 and they are getting bigger as well, since the gross tonnage of ships calling increased by 26 per cent to 282 million gross registered tonnes. The Ship Registry also continued its growth, including the number of ships registered in Gibraltar by 32 or 15 per cent from 217 to 249.

Although the macro-economic indicators relating to general trade remain firm, the Government is aware that by product type it is factual. The wholesale, retail and importers sector of the economy constitutes, as I said earlier, 14.5 per cent of our GDP and it provides 2,816 jobs. An increase, nevertheless, during 2007 of 69 jobs or 2.5 per cent. The value of imports into Gibraltar, disregarding petroleum products, increased in 2007 by £59 million or 16 per cent to £426 million. Exports increased by £21 million or around 16 per cent to £151 million. We imported goods to the value of £116.5 million from the United Kingdom and £111.2 million from Spain. The third biggest exporter to Gibraltar, Germany, was a long way behind at just £7 million. Gibraltar's total imports, that is to say, now including petroleum products, were £1.32 billion. We exported £854 million of petroleum products to shipping. The Government acknowledges the cross-border competitive environment in which part of this general trade sector operates. The Government is thus mindful of the effect of its decisions on the operating cost base and thus competitiveness of this sector, to the greatest possible degree, consistent with the needs of public finances and the right of workers in all parts of the economy to share, through pay and conditions improvements, in Gibraltar's growing economic prosperity. The Government has agreed to engage with the Chamber of Commerce this year in a dialogue to see what the Government might be able to do in this regard. This may include a further review of the import duty system. However, the Government is not convinced that one-off, unrepeatable measures at considerable public expense, and the beneficial competitive effect of which can in any case be quickly eliminated again by other market factors, is the way forward. It is not the Government's function, nor is it economically desirable for the Government to keep outdated, unviable and unprofitable

business models afloat by public subsidies. Quite another thing, is to pursue policies that protect the international competitiveness of otherwise viable businesses. Such businesses will benefit in a deep and meaningful way from the move soon to very considerably lower rates of corporation tax.

Mr Speaker, the on-line gaming industry has also had another good year. This is an industry in which the Government, not only does not seek growth or further growth in the number of operators, but actually curtails it through a very selective and restrictive licensing process. Employment levels have held steady at around 1,800. In April 2008 there were 19 licensees compared to 16 in April 2007. Government revenue from remote gaming tax has increased from £6.8 million to £8.2 million last year.

Lastly but by no means least, the financial services sector, which continues to grow and develop in terms of all of activity levels, product and activity range, employment levels and international standing and reputation. As Professor Fletcher observes in the 2007 model update, the finance centre is a major activity and a vital segment of our economy. It is a major employer, has high employment and income multiplier values and drives up the skills set in our economy. The number of jobs in the whole of the finance centre stood in 2007 at 2,378. That is up 162 or 7 per cent from 2006. I say the whole of the finance centre because in the employment statistics the financial intermediation sector only includes banks, building societies, consumer credit granters, insurers and related activities. Law firms and accountancy firms which are in common parlance and, in essence, an important part of the finance centre, are subsumed into the real estate and business activity sector. Legal activities accounted for 224 jobs, accountancy for 265 jobs in 2007. So adding those to the financial intermediation gives the real level of employment in the finance centre, 2,378 direct jobs. There are now 100 licensed insurance operations in Gibraltar, 60 in licensed companies and 40 in six licensed protected cell insurance companies. The sector continues to grow. The critical mass that has been achieved in this sector



now makes Gibraltar a mainstream insurance domicile within the European Union. There are 33 investment firms, 32 experienced investor funds, 12 protected cell fund companies, 86 trust and company managers and 18 banks. The latter with total assets of £11 billion and funds under management of £10.3 billion. Mr Speaker, given this robust performance in the current climate of continuing tax uncertainty, the prospects for our finance centre are huge when the new tax system is introduced.

Turning now to this year's Budget measures. Last year the Government introduced some very substantial cuts in personal taxation, both via the conventional tax system and through the newly introduced dual tax system. Government also took on board last year an increase in annual expenditure of £10 million, as I said earlier, for the 65.2 per cent increase that we introduced in old age pensions, in addition to the normal annual spending rise. The Government remains firmly committed to continuing its tax cutting agenda during this fourth term. So, in this first year of the term, I shall be implementing tax cuts on a more modest scale, and particularly targeted at the lower paid workers, at working pensioners and at businesses. Therefore, in respect of personal tax measures, firstly, one of the ways in which the Government has ensured that the benefit of economic wealth reaches all parts of the community, has been to target extra tax cuts at the lower paid. The extent to which we have cut taxes for the lower paid can be illustrated by the following analysis. £7,500 today is, or rather is today 35 per cent of average annual pay. The average annual pay stands at a figure 35 per cent of that is £7,500, £7500 is 35 per cent of today's average annual pay. Someone who earns that figure pays no tax today, 35 per cent of the annual average pay in 1996, when we came into office, was £4,563. In other words, £4,563 being 35 per cent of the then average annual pay, is the equivalent of what today is £7,500 on which no tax is today paid. But a person earning that sum, £4,563, 35 per cent of the annual average wage in 1996, pay £784 or 17.2 per cent of his salary in tax. 17.2 per cent of today's equivalent salary, £7,500, would be £1,290, yet a person who earns that today, thanks to the tax cuts that we have introduced during the last 12 years, pays no

tax. Accordingly, our tax cuts aimed at the lower paid, have since 1996 made lower income earners better off by £1,290 a year by reducing their tax burden from 17.2 per cent of their pay to zero per cent of their pay today. Tax payable by the lower earners will now be further reduced by increasing low income earners allowance with effect from 1<sup>st</sup> July 2008 as follows. By £880 a year for tax payers with incomes below £8,000, and this means that no person in Gibraltar who earns less than £7,500 a year pays any tax at all. The low income earners allowance, which we of course introduced, I forgot to mention, will be increased by £300 a year for tax payers with incomes between £8,000 and £17,500 a year. It will be increased by £250 for tax payers with incomes between £17,500 and £18,500 a year and by £150 for tax payers with incomes between £18,500 and £19,500 a year. This reduction will benefit 12,300 tax payers and will cost the Government £1.5 million in one year. Secondly, in implementation of one of our manifesto commitments to help those elderly persons who have worked in the private sector and so may have no occupational pension, and feel the financial need to carry on working, all old age pensioners who work will receive a tax credit of £4,000 in respect of their earned income, with effect from 1<sup>st</sup> July 2008. This is a tax credit not an allowance. Therefore, this means that no person of pensionable age who works, will pay any tax at all on the first £20,000 of earned income. To assist such persons further and in implementation of another manifesto commitment, we shall engage the trustees of Community Care in a dialogue to seek to persuade them to treat all gainful employment as eligible for Community Care payments. Thirdly, the top rate of tax for taxpayers on the gross income based system, will be reduced with effect from 1<sup>st</sup> July 2008 from 40 per cent to 38 per cent. Over the last ten years we have introduced very considerable reform and restructuring of the personal tax system, culminating last year in the successful introduction of the dual tax system. The House may be interested in knowing that something over 3,000 taxpayers have already transferred to the dual tax system and are enjoying tax reductions, running often into thousands of pounds. That is not the number that will end up, because of course, many people are waiting for the end

of the financial year to see under which system they are better off, and indeed, the Income Tax Office will place them in the category in which they are better off. This year we are continuing this process of reform of the tax and simplification over a period of time of the tax system.

So, fourthly, some changes to the mortgage interest relief allowance system, called in short and in acronym MIRAS. MIRAS is intended to provide a degree of public subsidy through tax reductions of income used to pay mortgage interest for the purchase of a home. The Government does not believe that this public subsidy should in the future be available to very high income earners, in respect of very large mortgages to purchase very expensive luxury properties. To achieve this, from 1<sup>st</sup> July 2008, MIRAS on new mortgages will be limited to loans of up to a maximum of £300,000. It goes without saying, that covers the vast majority of borrowers in Gibraltar, or the vast majority of normal properties in Gibraltar. Indeed, only just under 40 taxpayers have mortgage interest relief on mortgages for sums in excess of £300,000. They will be grandfathered. In other words, they will not lose their benefits overnight, they will continue to enjoy MIRAS on their loan, albeit that it is in excess of £300,000. Whilst that loan continues to be secured, (1) on the current property; and (2) in the name of the current borrower. However, they will be subject to a one tenth reduction per year from the sum of the loan, over and above £300,000, that is eligible for MIRAS until the eligible loan is reduced to £300,000. So the grandfathering is tapering downwards by one tenth of the capital over each of the next ten years. The annual one tenth reduction is made as against the sum of the loan over and above £300,000 on 1<sup>st</sup> June 2008. The first such reduction is effective on 1<sup>st</sup> July 2008.

Five, life insurance premium allowances. The allowance in respect of life insurance premiums, which are not a particularly good form of investment but for the tax relief, will continue to be available but on a maximum sum of one seventh of assessable income instead of one sixth as at present. In respect of existing policies and their existing values and terms, the allowance will

continue to be enjoyed at the taxpayer's marginal rate. Therefore, there are grandfathering provisions in respect of current policies. However, in respect of new policies or in respect of any existing policy if the value, term or premium of it is increased as of today, the allowance will be limited to the basic rate at 17 per cent and not at the taxpayer's marginal rate of tax.

Occupational pensions. Mr Speaker, as I have said already, the Government want to focus this term on the whole area of occupational pensions and, particularly, the extension of occupational pensions in the private sector, and indeed, the reform of occupational pensions in the public sector. We have agreed, with both the Trade Unions and the Chamber of Commerce, to engage in dialogue with them on this. That dialogue will commence after the summer. The Government is most interested in facilitating occupational pensions where they do not already exist. This is an important piece of social engineering for the future. To advance this important social agenda we are introducing two important changes to the tax treatment of occupational pensions. Firstly, propriety directors and shareholders of companies will, with effect from 1<sup>st</sup> July 2008, be permitted to participate in approved company occupational pension schemes. At the moment they are forbidden from doing so. Overall employer and employee contributions eligible for tax relief will be subject to a limit of 25 per cent of earned income. Secondly, approved personal pension schemes will be added to the two current pension products currently eligible for income tax relief. The two that are currently eligible are occupational pensions schemes, in other words, collective schemes and retirement annuity contracts. In the future, individual, usually portable personal pension schemes will also be eligible for tax deductibility. This will be available through approved pension providers and will provide both employers and employees with a more flexible and portable pension product. Overall employer and employee contributions eligible for tax relief will again be subject to a limit of 25 per cent of earned income. Premiums on new retirement annuity contracts will also be limited to 25 per cent of earned income.

Turning now to sex discrimination in the tax system. Several years ago we began and committed to complete the process of ridding our income tax legislation of the considerable amount of discriminatory provisions that it contained, discriminating between taxpayers based on their sex. To complete this process, with effect from 1<sup>st</sup> July 2008, the following allowances which are currently still only available to men, will be available to women as well. Child allowance, child studying abroad allowance, disabled individual allowance, nursery school allowance and dependant relative allowance.

Social insurance contributions. Social insurance contributions were last increased in January 2005, that is, three and a half years ago. It is the policy of the Government, and it is reflected in the fact that we have increased social insurance contributions usually at least once in every term, that the funding of the Social Insurance Scheme should at least keep up its inflation adjusted value. Accordingly, with effect from 1<sup>st</sup> July 2008, the maximum cap under the new Social Insurance system for both employers and employee contributions, will increase by ten per cent as follows. Employer by £2.62 a week from £26.20 to £28.82; employee by £2.08 a week from £20.75 to £22.83 per week; self-employed people by £2.40 a week from £23.98 to £26.38. There is no change, that is to say no increase, to the minimum contribution rates. Accordingly, following last year's reforms to benefit the lower paid and casual and part-time workers, workers who earn less than £11,900 a year will continue to pay reduced contributions linked to levels of pay. Those who earn less than £10,800 a year will not suffer any increase under the increases that I have just allowed. They do not affect people who earn less than £10,800 a year. Historically, social insurance contributions have been increased with effect from 1<sup>st</sup> January but since we have now amalgamated the Social Insurance and PAYE collection system and PAYE is administered as to end of June, it is appropriate that this increase be introduced with effect from 1<sup>st</sup> July and, in fact, we have delayed doing so until now in order to coordinate it with the income tax year.

The statutory minimum wage. The statutory minimum wage was last increased in 2005 from £4.00 an hour to £4.50 an hour. At this level it represents a wage of £175 a week for a 39 hour week. It is Government's objective that the least paid members of our society should not miss out on the benefits of Gibraltar's economic success. They have benefited, of course, from tax cuts focused by the Government on the lower paid and they have also benefited from reduction in social insurance contributions and, indeed, also from the Government's level of investments in improved and expanded public services and amenities. However, it is important that progress also be reflected in continually increasing minimum wage levels. Accordingly, the statutory minimum wage will be increased by ten per cent. That is to say, just over 45 p an hour to £5.00 an hour with effect from 1<sup>st</sup> January 2009. So from 1<sup>st</sup> January 2009, the minimum statutory wage will increase by a touch over ten per cent from £4.50 to £5.00 an hour.

Corporation tax. Mr Speaker, last year and in order to signal the Government's seriousness of purpose in reducing corporation tax rates, I reduced corporation tax rates to 33 per cent and said that I would reduce it further this year to 30 per cent, with a signalled reduction the year after that. That is to say, in year three to 27 per cent. In order to further signal the Government's commitment, I am advancing that timetable by one year and, therefore, the corporate tax rate is now reduced by 6 per cent from 33 per cent to 27 per cent with effect from this year. That is to say, the year of assessment 2008/2009. I envisage a further cut in the rate next year before moving to the rate of between 10 and 12 per cent from 2010, as the Government have already said, and to which the Government remain firmly committed. My strong preference will favour the bottom end of that range.

Import duty. Import duty will increase as follows. On cigarettes by 5p per pack of 20. On petrol by 3p per litre and on diesel by 2p per litre. The Government has an outstanding commitment to use the import duty regime on motor vehicles to support its

environmental agenda and objectives. We will make a start this year by restructuring the import duty regime on motor cars to reflect fuel type and the amount of their carbon emissions. The Customs process will also be made less burdensome for the business community by reducing the number of commodity codes into which imports have to be analysed, from the current 5,000 to just 200 commodity codes.

Education. Mr Speaker, the amount of money available to each school per pupil to spend on books and equipment, the so-called capitation allowance, will be doubled this year. It will be increased by 50 per cent this year.

Turning now to electricity and water tariffs. During the last ten years the Government has shielded and will in future continue to shield consumers in Gibraltar from the full extent of increases in the cost of producing electricity and water. Indeed, whereas in Gibraltar there has been only one increase in the last 17 years or so, in the United Kingdom and elsewhere tariff increases have been almost annual, especially to reflect rising oil prices. To give an idea of the extent of the Government's subsidy of consumer tariffs since 1996. If the flexible cost adjustment, which used to be called the fuel cost adjustment and the Opposition Members when in Government converted into the flexible cost adjustment, element of electricity bills, if since 1996 it had been increased as it should have been, just to reflect the fuel cost increases, it would now stand at 11 pence compared to where it actually stands, namely, 3.26 pence. Electricity prices would be 70 per cent higher than they are actually today if the Government had passed on to the consumer, since 1996, only the cost increases relating to fuel cost rises, oil rises, let alone the increases thrown up by rising payroll and other costs. This is the extent of the current price subsidy being absorbed by the Government. However, the extreme rise in the price of oil which now represents about half of the cost of generating electricity, means that it is both desirable and necessary from a prudence of public finances point of view, to pass on to the consumer at least some of the cost increases arising from the rise in oil prices, which everybody will know from their television, radio

and newspaper following of the news, has been rising at an extraordinary rate of late. Indeed, the price of oil, remember, which now accounts for half of the cost of generating electricity in Gibraltar, has doubled in the last 12 months alone. They have nearly trebled in the last five years. Accordingly, electricity and water tariffs will rise by 15 per cent with effect from 1st July. The average monthly electricity bill is expected to rise from around £38 to around £44 a month or by around £72 a year. Even after these rises, the Government will continue to subsidise the lion's share of even the most recent cost increases. In the UK, for example, consumers have seen their bills rise by 85 per cent over the last five years and by around 40 per cent during the last three years. In contrast, in Gibraltar there has been only one rise of 12 per cent during the whole of that period, even though we have faced the same oil price rises.

Finally, the minimum income guarantee. The minimum income guarantee which we have introduced is regarded by the Government as one of the principal instruments of social policy in relation to the elderly. It is the instrument by which the Government has ensured that in modern Gibraltar no elderly person is without a minimum amount of income on which to live, at a level which the Government fixes and guarantees. It is, therefore, an important safety net for those without a full or any pension, and those who do not receive Community Care payments. The Government intends to use the minimum income guarantee mechanism as an instrument of reform. With retrospective effect to the 1<sup>st</sup> April 2007, the minimum income guarantee level will be increased by 6 per cent as follows. A single person from £448.10 to £475 per month. A married couple from £598.10 to £634 per month. It should be clear, because it appears that some people do not understand the concept, from the requests that I sometimes get from constituents, that there are some people who may not yet understand the concept of a minimum guarantee. The Government do not pay hardly anybody, in fact, probably anybody at all, £634. The minimum income guarantee is the minimum level of income that the Government thinks a single person or a married couple should have available to them to live

on. If from their own private sources a person's income does not reach that level, the Government makes a payment to take them up to that level, to make sure that their income reaches the minimum income level that the Government believes every elderly person should have to live on, and guarantees that they reach it. The 65.2 per cent increase in old age pensions which came into effect on 1<sup>st</sup> April 2007, will continue to be disregarded for the purposes of entitlement to payments under the Minimum Income Guarantee Scheme. Subsequent annual pension increases will not be disregarded but they will be compensated by increases in the MIG level itself. Recipients of MIG (Minimum Income Guarantee) payments who are not in receipt of an old age pension, and therefore did not benefit from the 65.2 per cent increase last year, will continue to receive the supplement at the rate of £26.10 per month for a single person and £34.80 per month for a married couple, which I announced last year. Mr Speaker, I commend the Appropriation Bill to the House.

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

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

Yes, I think I will on this occasion. Mr Speaker, clearly I am not going to produce a detailed response to all the figures we have just heard at this stage. Therefore, first I have to deal with the Chief Minister's closing speech of a year ago, which I have not had an opportunity to respond to until today.

A year ago the Chief Minister started his right of reply speech by saying that the only device open to me was to rubbish figures, to rubbish the speaker, not meaning Mr Speaker but himself, and rubbish everyone that had anything to do with economic measurement or economic statistics. If we in this Parliament are not going to be permitted to question, analyse or disagree with statistics on economic measurements when we are discussing the public finances of Gibraltar and assessing the Government's

presentation of economics and statistics, then we might as well not bother to come here at all. It is precisely because we are entitled and expected to question the accuracy of the information provided, and to monitor their performance exercising our own judgement, that this Parliament exists. He accused me of trying to persuade people that the economy could not be as good as suggested by someone as ignorant, ill-informed and innumerate as he is. Well, I have not used any of those words to describe his performance, they are all his own words not mine. But having attributed them to me, he then started worrying about the effect their use might have on my credibility and what he perceived as my waning reputation as a supposed economist. I am not sure what is the difference between an economist and a supposed economist. I know one thing, which is that if I were a supposed QC and had been asked to approve the expenditure of thousands of pounds in resisting a claim for unfair dismissal by arguing that a contract of employment lasting one year and two days does not provide 52 weeks continuous employment, I would have said no. If I had been asked to finance the legal argument that the first week of the 52 does not count unless the employee starts work on the first Sunday of the first week, I would have said no. New employees virtually never start work on a Sunday. This has never been the way the law has been applied since it started in 1975, nor the way it was understood that it should be applied when we debated it here in that year, as I recall. As I say, if I had taken such decisions I would be worried about my credibility and my waning reputation as a supposed QC. So, Mr Speaker, I worry as much about his credibility as he does about mine. In order to try and address his worries about my waning reputation, I propose to demonstrate to him why and how the figures he used in 2006 and repeated and defended in 2007, are and were incorrect. Maybe after that he may reverse his judgement and conclude that I have now stopped waning as a supposed economist and started waxing.

Before I do that, I want to remind the House that this is not something peculiar to the last two financial years. The Chief Minister engages in explanations and economic issues which

show that he does not understand what he is talking about, to an extent that he is not even aware of how ridiculous some of his statements that he makes are. Mr Speaker, on the basis of some of his use of statistical information to reach the conclusions that he has done, I can assure you that he will not even manage to get an NVQ Level 1 in the field of supposed economics. That is one possible interpretation on the way he plays around with figures. That is the kinder one. The other one, which I am not making, is that he knows full well the nonsense that he is saying, assumes that few listeners if any, will be able to follow the argument and then liberally interposes a string of accusations and insults against me, which is what he expects will be the headlines. I am not accusing him of doing that all the time but I have to say that on occasions the circumstantial evidence that this has been his game has been pretty strong, as I will show.

One such example of display of monumental lack of understanding was in the 2002 Budget, when he told the House about the results of the input/output study. He said, I quote, "in terms of national income and subject to final validation, the GDP in 1999/2000 was 480". That is GDP not GNP. He then went on to make the most extraordinary statement that one could imagine. The hon Member he said, meaning me, I am sure is aware that the GDP excludes the Ministry of Defence which is not part of the domestic economy. Well of course, neither I nor anyone that I know has ever been aware of that. The Chief Minister, however, was so sure of what he was saying that he repeated it later on saying, "the MOD, which as I say is not included in the GDP calculation, but would be included in the GNP when they merge, that MOD is calculated to an amount to about 10 per cent of national income". Well, one thing that I am glad of is that he has learned something in the intervening six years, because at least today, when he told us that the GDP figure and input/output study was updated by Professor Fletcher, on this occasion he told us that the GDP was a part of it. So there is progress, that the MOD is a part of the GDP. Such a statement as the one that I have quoted can only be made by someone who has not got the foggiest idea of what he

was talking about then, he seems to have improved. Gross Domestic Product and Gross National Product do not merge. The difference between the two is not, has never been and cannot be that the MOD is included in the second but left out of the first. I will explain why. When I challenged this analysis at a later stage in 2002/2003, the Chief Minister came back with his array of attacks on my supposed expertise and how I thought I knew more than Professor Fletcher and Professor Wanhill, who he claimed were the experts who had confirmed the correctness of his statement. Well of course, he had misunderstood whatever advice he had been given by these two professors, but he should have known that it could not be correct if only for one simple reason. If the MOD expenditure were excluded from the Gross Domestic Product and included in the Gross National Product, then the second figure would be and would have always been higher than the first. The second would include something that the first one did not. The difference between the GDP total and the GNP total would then be the MOD. But it is and has always been the very opposite. The GNP is always smaller than the GDP. Secondly, we have for as long as I remember in this House, always been concerned about the declining level of the MOD share of the GDP, which at one stage was 60 per cent, was recently put at 6 per cent and now we are being told that Professor Fletcher has it down to 3 per cent. How can there be a declining share of GDP of something that is not included in his calculation in the first place? Anyone familiar with this ought to have known that the statement could not possibly be correct without having to be persuaded of that fact. In any event, the report then of the input/output study makes it clear, it reads the Gross Domestic Product of Gibraltar in 1999/2000 estimated by the input/output study at £411 million, the approximate figure quoted by the Chief Minister, is in fact contained in the report that was published, and specifically states that it includes the MOD.

This was not the only example though that year of the misunderstanding of relevant statistics. We were told that the study had shown in the year 2000 that the tourist industry had grown substantially and accounted for a total income level of

£107 million. In terms of employment, it was alleged that tourism directly accounted for 2,300 jobs and that when account was taken of the relatively high employment multipliers for the industry, the total employment generated from tourism was at around 4,000 jobs in 2000. Certainly the figure at first sight looked extremely unlikely to be accurate. The Employment Survey Report for that year indicated that private sector employment, excluding Government agencies and similar entities, was around 8,000 bodies. The suggested level attributed to tourism would have meant that it was responsible for 50 per cent of the private sector. The report itself analysed the £145 million of tourism expenditure contained in the report for 2001, which Members can actually see reflected in page 5 of the report for this year tabled last week. The input/output analysis says, in terms of employment the direct effect is 1,853 full-time equivalent jobs and that the direct plus indirect is 2,760. When the induced economic activity is also brought back into the equation, the total employment opportunity supported by tourism is 3,498. I am sorry the Chief Minister has left the Chamber, I hope he is listening to all this in the next room on the speaker, because otherwise he is not going to learn anything and will keep on making these mistakes. I argued then that the effect of the economy in terms of job creation could not be as estimated, otherwise as table 5 of page 5 of this year's summary report tabled last week shows, there would have been year to year changes in employment levels which simply have not happened. The Chief Minister said that it was that I did not understand how the input/output matrix worked and that he had been told this by Professor Fletcher. So I put the question to Professor Fletcher on 19<sup>th</sup> August 2003. On 29<sup>th</sup> September Professor Fletcher's reply was to confirm that my understanding of the employment effect was correct. In answer to my question about the implications for tourist expenditure in 2002 he said, provided the £177 million of expenditure in 2002 was distributed in the similar pattern of spending as had happened the year before with the £145 million, then the effect of the extra £32 million would be pro rata to the figures calculated and published for the £145 million, in terms of the jobs it creates. Which was indeed the argument I had put to the Chief Minister in the

House, recorded in Hansard, and which he had rejected allegedly on the advice of these same experts. Since then, of course we have not had any further indication on the impact on the labour market of the tourism expenditure, and it seems self-evident that it is not what was believed to be the case in 2002, and we have not had, of course, any information on the input/output study until we heard this about half an hour ago in this House, and since I had been promised a full copy of the new report, I look forward to seeing it and reading it and coming back to the House to put before the Chief Minister the opportunity of calling me all sorts of names once again. I will return to this year's Tourism Survey Report tabled last week later on in my contribution.

In that year, in 2003, the Chief Minister addressed the Chamber of Commerce in October and boasted that he had increased employment in three years, between 1998 and 2001, by no less than 9 per cent. What he forgot to tell them was that, in fact, in 1996 the level was higher than in 1997, 1998 and 1999. Therefore, the increase was 7.3 per cent in five years rather than 9 per cent in three. Selecting a base from which to start counting is always a useful tactic to put a gloss on statistics. In the 2006 Budget, we had the Chief Minister making a big song and dance about the Employment Survey results for October 2005, when he said the economy grew by a huge 880 jobs or 5.5 per cent. Well, the GDP which is a measure of the size of the economy, grew by 9.5 per cent as we have had confirmed again today, in 2005/2006. So, what was the Chief Minister trying to prove then and when he makes this reference to the economically active Gibraltarian population, which he had never done before 2006, in relation to employment levels. We shall soon see, Mr Speaker. We were told in 2006, and again last year, that Gibraltarians aged 15 and over totalling 18,500 in the 2001 Census, and that of this total, 10,090 were economically active, which was around 55 per cent of the 18,500. Then we were told, the economically active population has grown to 61 per cent in 2005 because the numbers employed have grown from 9,154 in 2001 to 9,870 in 2005. This, I regret to say, is totally inaccurate. Even more so is the conclusion that the Chief

Minister proposed after this explanation. Namely, this employment within the economically active population estimated at 97 per cent, is almost full employment. Then after this we have the reason for the analysis, because it is 97 per cent the Government say it is inevitable that jobs should go to outsiders, which is what we have been criticising since 1996. The figures are to provide the defence against that. The Government, therefore, as a consequence, tells the House that they reject what he describes as economically misconceived pseudo-nationalistic and politically motivated remarks, that there are too many Spaniards involved in Gibraltar. Well there are a lot of people who make those remarks in Gibraltar. The Gibraltar labour supply, we are told, is fully employed at about 9,900. Since 1996, he says, Gibraltarians in employment have grown from 9,390 to 9,870 – an increase of 480 – all women because we have run out of men. So we have run out of men in the year 2006. The first point is that the 18,500 is not the correct comparator but since it makes no difference to the equation and the argument, I will not go into that particular issue, I just put it down for the record. Secondly, the 10,090 in the Census is based on the replies of the persons who filled up the census forms and what they describe as their own employment status reflects that. What the Census of 2001 clearly shows is that the number of Gibraltarians who themselves said they were employed in that year, is not the same number as shown in the response given by the employers in October. The employers gave a different number in October from the one the individual gave in the Census. Clearly, if one constructs an economically active population from one source of information, and then one chooses a different source of information to compare with the first, one of the elements of which has a different value, then the answer is by definition flawed. According to the Census there were in 2001 8,787 Gibraltar employees in the economy. Moreover, the figure of the self-employed Gibraltar in the Census Report is 953 and not 753 quoted by the Government in their explanation of the calculations that they gave in last year's Budget. The argument of the Government in 2006 was that there was full employment because there were no Gibraltar males left to employ. However, this is a magic formula for

ensuring that the Government can never get it wrong. If the jobs go to outsiders it is because we are employing 97 per cent of available Gibraltarians and we have run out of workers. If the following year the survey shows an increase in Gibraltarians, then it is because the economically active Gibraltarians have increased and, therefore, the higher percentage that have become active still gives us the magic ratio of 97 per cent employment level. This miracle in labour economics is achieved by constructing an economically active population out of the data of the survey results, showing therefore that if there are 9,900 then in employment, it is full employment, and if there are 9,800 it is still full employment, if it is 10,000 it is also full employment. That is, full employment is whatever the survey says are the number of people employed, and it does not matter whether it goes up or it comes down. One simply takes it for granted that if Gibraltarians become unemployed, they cease to be economically active until they get another job, and in the intervening period they cease to exist statistically. That is the mechanism.

So was that the whole purpose of this part of last year's closing speech from the Chief Minister? Not quite. It was not enough to argue, as he could have done, that he was not convinced by my analysis. No, he had to go further, he also had to say, "the only thing that is not rational and logical is the obscene political purpose to which the Leader of the Opposition wants to put it". That is, that there are Gibraltar people who are losing jobs to frontier workers, that is the obscene political purpose. Well, I have been showing every year since 1996 that Gibraltarians in the private sector, and in some areas of the public sector, have been losing jobs which have been taken by frontier workers, mainly Spaniards. So I certainly have no need to make use of the ridiculous arguments that he paraded ten years later, in 2006 for the first time, even though he claims they have been given the same statistical analysis every year but apparently saw no need to make use of it in his Budget speech. In the 2006 Budget, I showed that the Employment Survey Report with 880 extra jobs also showed less Gibraltar males employed than before, that the drop was even more so when one



considered that 60 of the jobs in the Education Department included as new in the 880 were not new jobs at all, but simply ones that had not been recorded in earlier surveys, and they would be Gibraltarians. The Chief Minister might prefer that I should not point out these things, but what I think is politically obscene is the way the Chief Minister feels compelled to use unnecessarily insulting language whenever he faces an argument that contradicts his views.

Last year, the Chief Minister went to considerable lengths to try and prove that there were no male Gibraltarian workers available because it had been static for years. What his figures showed was that the number of Gibraltarians that had been employed in 1996 was 5,615 according to the survey and that every year after that, it had been below that level until we got to 2006, the year he was actually making the comparisons. That is, the argument that the Chief Minister was using in 2006 was disproved by the very report of 2006, where there was an increase from 5,498 to 5,780 – an extra 220 male Gibraltarians previously not in existence, according to him, found jobs in that year. Now we have the figures for 2007 tabled today, of which we had a preview last week, which shows 5,859 Gibraltarians in employment. Even though the argument was that we had exhausted the entire male workforce in 2005, and yet since then it has grown by 361 which they had not done in the preceding 20 years, which shows that it is possible to do. So much for his argument of a static workforce for the last 20 years because the supply had been exhausted. That, however, did not stop him from achieving the result he wanted, since the report on the debate in the next morning's Chronicle by Mr Paco Oliva, obligingly gave the version invented by the Chief Minister. Apparently, according to that article, he rejected an allegation made by me. The article quotes me as saying that the hon Member had a fiendish plan to conceal the number of Gibraltarians losing their jobs to frontier workers. But of course, as the Hansard shows, I make no such allegation and if I were to make allegations about the Chief Minister, I would certainly not use "fiendish", that is not the kind of word in my vocabulary, the public school I went to did not use "fiendish". The Chief

Minister during his speech accused me of having a furtive mind that had come up with this concept. So he did not actually accuse me of articulating it, he accused me of thinking it. His words not mine, by the way, again. Well I suppose that he has now got to the stage that he believes he has mind reading powers as well and wants to control, not just what we say but even what he thinks we think. I have no wish to offend him, Mr Speaker, but it does sound like paranoia when the Chief Minister makes that kind of statement. I have argued not that he had a fiendish plan in 2006, but that he has presided since 1996 over the reduction of the Gibraltarian workforce in a number of areas in our economy and their replacement by frontier workers. I have been saying this every year, not for the first time in 2006. Moreover, I never said he tried to conceal it, he has never tried to conceal this. Instead he has argued first that there were no Gibraltarians available, or alternatively, that if there were available they did not want to do this type of work. Or alternatively, that if that was not the case, they had moved on to other sectors of the economy because they were better off. As a lawyer yourself you will recognise the methodology of saying if the first thing falls you produce a second and if the second falls you produce a third. Of course he cannot deny the figures, because the figures that I quote are not figures that I produce but the figures that are produced by his Government and published by them in the Employment Surveys, such as the one we have tabled last week.

In 1996, for example, the private sector provided 997 jobs for construction workers, of which 531 were jobs held by Gibraltarians, 531 out of 997. In 2006, there were 1,735 jobs in the construction industry but only 400 Gibraltarians in employment. The non-Gibraltarians had not just taken the new increased jobs, which amounted to 738, but had also taken 131 of the ones that previously in 1996 were giving jobs to our own people. Last year the Government's response was that it is not true and that if it is true it is only because Gibraltarians do not want to work in the private sector construction. The report tabled last week, the one that had been officially tabled when we suspended Standing Orders this afternoon, shows that the

Government's arguments are wrong, because what they have said about last year's position, about the 2006 Employment Survey, is no longer true of the survey presented today. For the first time since 1996, the number of Gibraltarians in the private sector construction industry has actually gone up. So it is possible that there are Gibraltarians who will take jobs in that sector. It has gone up from 400 to 429. Of course, the total for the construction sector has gone up now to 2,078 so the 29 is still only a drop in the ocean in terms of jobs. But at least it is in the right direction. In the retail and wholesale trade, again, the local jobs disappear even though the total number of jobs go up. The Chief Minister has mentioned the increase in jobs, in his own contribution, in the retail and wholesale trade. It is true, the survey tabled today shows more jobs in the retail and wholesale trade. Between 2006 and 2007, the number of Gibraltarians employed went down by 8 males and 54 females. In the same period the number of non-Gibraltarians went up by 64 males and 67 females. These additional workers take both the jobs that have been lost and the increase in the sector. I call this local workers being replaced by workers from the outside, and if he wants more examples let me remind him of the answer he gave in the House at the last Question Time. The numbers employed in the gambling industry showed a drop of 52 Gibraltarians in six months, from September last year to March this year, 52 down. In the same period as 52 of our people lost their jobs, 45 outsiders were recruited. The industry went down by seven but at the expense of 52 local jobs. Well, let me add that if that is politically obscene then, I believe that the people who vote for me, vote for me to bring these things out, to fight for jobs for them and to argue their case. One final point, of course, if it is such a politically obscene view to suggest that our people's jobs can and are being lost to competition from frontier workers, then I suggest that the Government should not make use of this argument in their submission for EU funding, where in the document that they submitted to the EU, they actually identified this as one of the threats. I quote, "strong competition for jobs from non-resident labour from neighbouring towns is one of the threats identified". So it stops being obscene if it is being made

use to get money out of the EU. But it is obscene if I make it in this Parliament, which is where I am supposed to be making it.

I mentioned earlier that I would be referring to the Tourist Survey Report tabled last week. I have already referred to the debate we had in the past as to the employment generation effect of the expenditure in table 5. We have seen that the bulk of the jobs in the economy have come from construction and gambling, both of which will have secondary multiplier effects, of course. Indeed, it seems the gambling is now more or less stable, it has stabilised at present at about 1,800 jobs and the construction is still growing. I will say something more about that when I respond to some of the new information we have been provided today on the works programme of the Government. But as regards the impact and the importance and the contribution to the economy of the tourist sector, well, it is obvious, it ought to be if he believes any of the stuff that Doctors Fletcher and Wanhill tell him, for which he pays them, that it is not the numbers that matter but the money that they spend. That is to say, if we have one million more people in 2007 than in 2006, and the one million more spend less than was spent the previous year, so we have six million people spending x and then seven million people the following year which spent less than the six million did, the effect in year 2 cannot be higher economic activity because the higher economic activity is not produced by wearing out the leather of your shoes walking up and down Main Street, but by going into the shops and parting with some of your cash. So, sightseeing and window shopping may fill our streets but they do not fill our pockets, Mr Speaker. This year's report shows that the biggest increase in expenditure was by visitors staying in hotels, where it shows as going up from £20 million to £26 million, a £6 million increase which is a big increase in relation to the £20 million, of course. Based on the number of people and the length of their stay shown in the Hotel Occupancy Report, also tabled last week, the daily expenditure rate works out at £134.70p. This shows a very large increase in individual daily expenditure by people in hotels compared to last year. That is to say, the individual daily rate that produced the £20 million is much smaller than the one that

produces the £26 million. When something similar happened some years ago and we queried it, once the original resistance to the query was overcome and the matter was looked into, it eventually turned out that there had been a miscalculation of the figures. I would ask the Minister for Tourism, who is responsible for tabling the document, to provide an explanation for the increase, the £6 million of expenditure by people in hotels, and whether the figure has been obtained from the interviews carried out at places like the frontier, the airport and so on, by asking individuals, or whether that is information provided by the hoteliers, because I think the last time something of this nature happened, there appeared to be a discrepancy between what the hotelier said was being spent and what the people who had been interviewed said they had spent. That was part of the reason for a very dramatic jump in one particular year which was out of line with the trend. Visitors from Spain in the survey presented last week were spending less money per capita and therefore the figure for this last year, for 2007, in spite of the fact that the numbers are higher, is still a spend less than in 2004. So here we have got a situation where, in fact, the bulk of the visitors to Gibraltar, which are the people crossing daily from Spain, actually spent less money in 2007 than they had spent in 2004, according to the official report of the Government. The 1.1 million increase, of course, in persons coming across the border, shown in table 6, includes the non-Gibraltarian frontier workers, as the footnote shows. Clearly, the non-Gibraltarian frontier workers increase every year, and therefore, this component also increases every year. The number that are cross-frontier workers may spend some of their money here but they do not make a net contribution to the economy in terms of the methodology of the Input/Output Study, because of course, the money that they spend is the money that they earn within our economy. Therefore, if anything, their expenditure is likely to be less than that of resident workers, whereas the expenditure of those who just come in and visit us, is purchasing power generated not by the domestic economy but by the external economy. Therefore, it is important to be conscious of that distinction when we are looking simply at numbers.

Turning to this year's Estimates, the forecast outturn based on the calculations we have done on the book in the time that we have had it before we have heard the Chief Minister's explanations, shows that the recurrent revenue and expenditure were both some £8 million higher than the estimates a year ago, which has today been confirmed. Giving the result of £50 million, virtually spot on with last year's estimate because they have both gone up by the same amount, the plus and the minus. This extra, of course, we know, has been needed by the Government because of a lower level of property sales as a source of capital for the Improvement and Development Fund. Hence, the supplementary appropriation of £12.5 million which we voted, which is reflected in the Supplementary Appropriation Act we voted last week, with the increased contribution going up from £15 million to £27.5 million. Having originally estimated sales of property of £23 million and achieved just £2.5 million, which is a much bigger gap than in any other year that I have seen, the fact that we have £9.5 million pencilled in for the current year suggests that it is not a question of delays in sales, otherwise one would have expected a much bigger chunk to have come forward, but a drop in demand. I would like to have an indication, when the Chief Minister exercises his reply, of what was originally expected to produce £23 million and did not materialise and whether any of these possible sales deals have been included as expected to be completed in the current financial year and, therefore, are part of the £9.5 million of revenue that we are anticipating in the estimates of revenue and expenditure for the Fund. The other source of capital, also from sales of property, has been the sales that were originally expected to produce money in the Improvement and Development Fund and in the companies. The ones in the companies we do not know to what extent they continue or they do not continue because we do not have those figures available to us, but the position on the estimates in the figure of cash balances, in that extra page that is included, was that a year ago the prediction was that they started with cash accumulated by sales amounting to £38 million, and that that would be used to finance the housing projects, I was told that during Question Time in the course of the year, and was expected to come down

to £8 million. In December I was given a revised estimate that the figure at the end of March was likely to be £10 million, and then this was subsequently changed to £1 million, which is the figure that appears in the estimates now. So we have got a situation where the cash in the companies on 1<sup>st</sup> April this year is £1 million and that this is also shown to be what is expected to be the closing level at the end of this current financial year, 2008/2009. I would like to know whether the projection of the £1 million in a year's time is based on the fact that no further movement, in terms of income from sales or expenditure on the creation of assets, is expected in the companies in this year or whether in fact it is based on the premise that the money that comes in will be spent, and that therefore there will be a net zero effect but not that there will be no movement. I would like to know whether it is one or the other. If it is the second, a net effect, to have some idea whether the kind of movement we are talking about is whether there is going to be an expectation of say, £5 million coming in and £5 million being spent, or an order of what it is, not the individual properties or estates or whatever. I just want to know whether this movement..... and if so, the magnitude.

Capital expenditure last year from the I&D Fund has been £29 million instead of £39 million as voted. This year's budget is £25 million. Mr Speaker will, of course, notice that the figure that I am using is different from the one that was used by the Chief Minister which was, I think, £31 million. In fact, the I&D figure is £32 million and I have removed £3 million. I have removed £3 million for the reasons that he himself gave, in that if what we are talking about is paying somebody £3 million for money that they spent before 2003, can hardly be considered to be capital expenditure in the year 2007/2008. But the point that I am making is, that in fact if we are looking at what was intended to be spent, which is £39 million, which did not include the £3 million, and what has been spent, then we have to remove the £3 million from the second figure to compare it with the original. The point I am making is that the under-expenditure is £10 million and not as would have been suggested by the figure that the Chief Minister gave. Of course, the £29 million I do not think

would have allowed him to say this is the second highest figure since 1996, either, he needs the £31 million to be able to say that.

**HON CHIEF MINISTER:**

That is not true.

**HON J J BOSSANO:**

Well, I have not checked all the figures.

**HON CHIEF MINISTER:**

Like so many of the other things that he has said that xxxxxx

**HON J J BOSSANO:**

No, no, all the ones I have said I have checked. The one I have not checked is the one..... I can tell him one thing, I do not think he has got the right figure when he said £31 million. I think he is actually mistaking the revenue for the expenditure because in the Improvement and Development Fund that he has in front of him, if he cares to look he will see that the I&D figure is £32 million expenditure and £31 million revenue, and he actually said £31 million and that is the revenue and not the expenditure. So he has made a more serious mistake in thinking that money that he is receiving is money that he is spending, than I have made in thinking that his boast that it was the second highest at £29 million he might not have been able to make. I do not know whether he will or will not, but I certainly know that it is certainly not £29 million that he was using, it was £31 million.

**HON CHIEF MINISTER:**

Mr Speaker, the hon Member cannot possibly think what he has just said. I have given him the gross amount of expenditure in the Improvement and Development Fund and then I have pointed out to him two items which are one-off, the final settlement on the hospital contract and the £3 million. It was I who told him that not him. I said of the £31 million one might as well deduct the £5 million from the hospital final payment and the £3 million from the CEP/SA/Shell xxxxxxxx and therefore is the balance. The balance is still capable of being described as the highest. Actually not the second highest, the first highest because the first highest, if he wants to talk about real expenditure, came in the year where we wrote cheques for payments of compensation for having to terminate the In-town Development contract and not actually on real projects at all. Expenditure on actual Government projects is last year, the highest that it has been. If he wants to strip out all the things, like the £3 million, stripping all of that out and if he then goes all the way back to 1997 or 1998 which is the highest one, which he will see is an amount that could not possibly have been spent, except in relation to a one-off, another one-off which he should also now strip out, which was the very large payment that we made back in that time. Also for an extraordinary expense. It was either the purchase of the new hospital building or the settlement, xxxxxx coincided at the same time one with the other. Therefore, if he wants to know, and I will obviously demonstrate it to him again when I respond to him, the level of expenditure on real projects executed and therefore properly xxxxxx, is higher now than it is. He is the one who keeps on telling me, is it not, that it is not possible to spend that money and now the spend is actually creeping up as projects come into fruition.

**HON J J BOSSANO:**

I have never told him that it is not possible to spend that money, quite the contrary. He has, it is something else that I will

mention later on, but he has been the one who has argued here, I think sometimes when he has had difficulty in raising money, to be quite honest, that the money has not been cut back because he could not raise it but because, in fact, contractors were taking advantage of the volume of work that he was putting. He has used the argument that the contractors were taking advantage because he was putting too much work on the market. He has argued that the quality of the workman was going down because we were running out of sufficiently skilled workers, and he has always done that when the actual turnout has been much less than what we have approved. The point that I am making, which is of course, as far as I am concerned, the obvious thing to do when we come to this point in the affairs of our Parliament, is to look at what we said a year ago the Parliament was approving the money for. Last year, in the Improvement and Development Fund, the Parliament approved £39 million of spending, which did not include the £3 million which required a Supplementary Appropriation Bill. That £3 million I am ignoring, because if I am going to compare to what extent the original £39 million has been spent, I cannot include as part of the £39 million, £3 million that has been used to pay off somebody that apparently we owed money to five years ago. So therefore, in terms of spending, even if it is on the final payment to the contractor, I am not taking that out because that was money voted, that was money intended for that purpose and that was money that is for a physical structure that has actually gone up. So one is converting cash into something that has got a physical thing. But in the other case we are paying for something that not only has not gone up, it has actually disappeared, the Williams Way Depot. So what I am saying is, that in looking at the level of achieved expenditure last year, the figure was £29 million as opposed to £39 million and in looking at the budget this year, the figure this year is £25 million. Therefore, notwithstanding the fact that we have been told by the Chief Minister of this huge amount of capital expenditure in the pipeline, ready to start in this financial year, the reflection of the money that the House is being asked to provide at this point in time is, in fact, that we are being asked to provide in the Improvement and Development Fund, £4 million less than was

actually spent and £14 million less than what the Government wanted to spend a year ago. That is not an indication of a huge increase in spending. It is quite the contrary. If it is, as the hon Member says, that we are debating this at the worst possible moment, because it is in the middle of the tendering process, some of which are going to happen in June, well look, it is not a moment picked by us, it is a moment picked by him. Since he picks the date of the tender and he picks the day of the Budget, then all I can tell him is he ought to be more careful in not picking worse possible moments to do these things. The House could have been held at a later stage, it is not that it cannot carry on financing its expenditure unless we vote the money this week. Therefore, if that created a problem for the Government there would have been no problem in letting these tenders go through and get all the negotiations over. I am only making the point since he drew our attention to this unfortunate juxtaposition of dates. At least that is something he cannot blame us for.

In the provision in the I&D Fund for car parks, this was originally being undertaken by the I&D Fund itself as a Government project. Then, I think it was last year, that it was removed and shifted to a Government company. When we asked what was happening with this we were told this is now going to be done through a Government company. This year I notice that although it is still being done by the Government company, it is being charged to the I&D Fund. It is being charged to the I&D Fund by the I&D Fund purchasing increases in share capital of the company that is building the car parks. Now, it is a mechanism that I do not recall having seen before being used in this way. If the original idea was to take it out of the public sector spending budget on the capital account, so that it would be financed by money raised by the companies, then I can only suppose that this may be the answer to the question I asked previously, about whether there is any money coming in to the companies? If the companies, in order to finance the car parks, have to sell shares to the Government, which the Improvement and Development Fund will pay for, and again I am not sure whether that is the best way in which to have it, it does not

matter where it is shown because at the end of the day it is all public money, but normally if one is going to be building car parks one just pays for the car parks and be done with it. The implication, as I see it, of the way that it is being shown on page 106, is that I take it that when the House votes this year to buy £400,000 worth of shares in a Government company, with a balance to complete of £6 million, then presumably the balance to complete is the completion of buying shares because we are not completing the garages of the car parks. I assume and I would like confirmation that what the Estimates Book shows on page 106, of a £400,000 expenditure this year, and a £6 million balance to complete, is as I have read it and understood it. If not, then I would be grateful for an explanation of what it means. Whether it means we are buying 6.4 million shares or it means something else.

Looking at the capital account it appeared to me, on reading it, that there would be a requirement for borrowing and this has now been confirmed by the Chief Minister. Of course, let me say that clearly the speeches and the information and the Budget statement made in this House, are not just for the benefit of the Members of the Parliament but for the benefit of the public at large and the media so that they can follow what is going on. Therefore, the Chief Minister is perfectly entitled in that event to come out with these arguments about the borrowing levels, about whether the borrowing levels are too high or they are too low, or what they used to be in the past, what they are going to be in the future and how everybody relates the borrowing levels to the level of the size of the economy and the GDP, and not simply to the finite figure that it can be. So if one owes £100 million then, obviously, everybody understands that the more money they have the more money one can borrow, so therefore, by definition, the more money one can owe. So that is true also of economies, the bigger the economy the more money that it is able to raise because people will be willing to lend to it. Let me say that, first of all, the increase in the borrowing requirement is something that we will vote in favour of, if we agree with the rest of the things in the Bill when it comes to that. But the idea that the borrowing was already too high was not something that I

have ever questioned or criticised the Government for. In fact, the only Member of the House that was not a Member of the House in 2003, who was very incensed about the level of debt, is sitting on that side of the House and very close to him. So, if he needs to convince anybody in this Chamber it is him and not me. To his left, still, eventually maybe to his right but now he is still on his left. However, when he was in Opposition, he did not have the same views or maybe he did not have the same knowledge that he has gained in Government, about the correct way to assess debt, because he never accepted that a debt of 24 per cent of the GDP could not possibly be a millstone around the necks of the Gibraltarians, which was how he used to describe the £80 million at that time. We do not think that £100 million is a millstone, or that £200 million is a millstone, or that any given figure is a millstone. The reality of it is that it is not just how much money one borrows, even more important than how much money one borrows, is how one spends the money that one borrows. I mean, if one is actually able to invest money, public money, in areas which will result in the generation of income and wealth, then the rationale for that is as good as when a businessman does it. Why should it be any different because the money belongs to the people and not to an individual investor? If in fact the spending of the money is going to create costs and liabilities, as it has to do in some kinds of social spending, then the equation is a completely different one because one needs to find money to service the debt and money to keep the actual new facility created going. Therefore, we look at the issue both in terms of the size of the economy, the cost of servicing the debt and the effect of the expenditure of that money. In the short-term, clearly, what we see already is that with over 2,000 construction workers the new elements of capital projects that have been announced today, would clearly mean big increases in the size of the construction workforce from the present levels. That in the short-term means that some of the money that the Government is spending is going to start coming back to it from the wages going up by more people being employed and from tax. When one spends capital money in that area it is not all a net outlet, there is for the Government some return and we recognise that. Therefore, we will look at

these things, in the exercise of our judgement, which may not coincide entirely with theirs, but in a sensible way when we have the opportunity of seeing the full details and we will decide what we can support and what we can not. But in principle I can tell the Chief Minister that the idea that there is something magic about the £100 million ceiling is something that we do not agree with, and that it certainly makes sense if we have got a range of possible triggers which does not require having to come back each time to change the figure as the economic conditions change, which may make it more favourable or less favourable to be able to undertake more capital investment using that kind of resources. I think the use of the PFI's is something that, obviously, is also going to be forming part of this scenario. I think we were told it is going to be a mixture of different things and, in the instance of the PFI's, I think the problem we have got is that we do not know how to translate, because with the PFI's what we see is the actual servicing cost but nothing else. We do not know how one can translate to say, well look, if it were not a PFI, what would one consider to be the equivalent liability in terms of public debt? I know that the debate on what is PFI and what is not PFI has been started in the UK and I think I raised that in a question and the Chief Minister accepted that, in fact, the ground rules were changed in the United Kingdom which is the practice that we follow, UK practice, then presumably we would need to see how PFI's that the Government may be thinking of going into in Gibraltar, would need to be adjusted if that is what happens in the United Kingdom as a result of what has happened there. But I know that there was at one stage an argument being used in the United Kingdom by the audit people, that the level of public debt in the United Kingdom was in fact understated because of the PFI's that were being used left, right and centre in all sorts of areas.

The Chief Minister has also talked about using the reserves. I think it is evident that the cash reserves of near £100 million, or just over £100 million for 2007 are not the kind of reserves we are likely to see in the next three years. As the Chief Minister knows, I have always been of the view that, in fact, if one has got a building and sells it and puts the cash in the bank, one is

not better off and then if one takes the cash out of the bank and buy another building, one is not better off. At the end of the day, there are points in time when the assets of the people of Gibraltar are in more liquid form and times when they are in less liquid form. In economic terms, when they are in more liquid form the Government has got more flexibility to be able to do things with it than when it is in bricks and mortar. But we see claims being made about the reserves being better. Well look, if the guy that buys the East Side pays £30 million and we put it on deposit, we are £30 million more in cash richer and one east side lump of land poorer. Then if we take the money out of the bank and spend it on something else, well we have got less cash but we have now got an asset that presumably is worth £30 million. So, you know, it is important to have cash but we do not think it is a big tragedy if it is £90 million or a big success if it is £100 million. Therefore, we take it that the implication of what has been said is that it will be less in future than it has been in recent years, but I cannot say that I agree with the Chief Minister's analysis of what he is going to do to the Savings Bank. We will have to have a debate on that when the legislation is brought to the House. But to say that there is an extraordinary revenue item in the year 2008, because he is going to remove the reserves of the Savings Bank that started in 1935 and is the result of the operation of the bank for 35 years, is hardly a revenue item in the year 2008. Not 35 years, I beg your pardon, since 1935 which is when the bank was founded. Originally, in fact, until 1988 the figure required was 15 per cent, a 15 per cent reserve of the value of the deposits. Then when we came in, at the time we had to discuss the matter with the Bank of England and the UK Treasury, and they agreed that 15 per cent was too high, that commercial banks have a reserve ratio of 8 per cent and that, therefore, 15 per cent which was almost double, was not justifiable. Therefore, we changed the law to make it 10 per cent. In 1997, I think it was, when the Chief Minister came into office, he changed that to make it 10 per cent of the deposits in the bank of the public. That enabled him to remove some of the money that had been built up in the years of the GSLP Government when the Savings Bank increased its activity enormously, and increased its profits

enormously and created a very big reserve. I think the reserves were something like £360,000 in 1988 and something like £5 million or £6 million in 1995, a huge increase. It moved from making £68,000 profit in a year to making £4 million or £5 million a year profit. That figure that was removed then and put into the Consolidated Fund, was defended on the basis of, well look, why should the Government, in a Government-owned bank in which it puts its own money, have to have a reserve to protect itself? It is a completely circular argument and there was validity in that argument. But I think to say now the bank is going to have no reserves when it takes deposits from the public, and that is because it is no longer going to invest in gilt edge stocks, which is what it has been investing up till now, it is not invested in equities, but because it is going to have all its money in cash on deposit, well we would have to see the wisdom of doing all that. But if it is just because we need the £17 million, well look, I do not think the figures in this House in front of us in these Estimates, show us that we are so desperate for money that we have got to remove and wipe out the reserves of the Gibraltar Savings Bank. It is not that this coming year the Government is going to be £17 million better off because it is the owner of the bank and the £17 million sitting in the bank..... In fact, one of the contradictions in the Estimates, having heard the explanation which I did not include in my original preparation for replying to the Chief Minister anything about the Savings Bank, because I had seen the note that this was being brought in as an exceptional item but there was nothing anywhere in the Estimates book to indicate that this was because the entire system was going to be scrapped and a new one was going to be put in its place. Strangely enough, that it continues to be as a matter of recurrent revenue, the contribution both in the annex where the Savings Bank accounts are and in the Consolidated Fund of the transfer of the token amount of £1,000 of what until now has been the surplus over the 10 per cent. So at the moment if the public have got invested £170 million in the bank, the bank must have £17 million of its own cash as a reserve on top of the £170 million that belongs to depositors. If they have got £18 million then the legislation that is there now allows the Government to take the £1 million over and above the £17



million. What they are doing is they are wiping out the whole £17 million and leaving it with a mere £24,000. Yet they have got a token £1,000 to continue transferring surplus. What surpluses? On the basis of those accounts, it is inconceivable that there will be any surpluses in the bank, because look, until all this restructuring takes place, and we are not sure that we are going to be able to support that, we will see what the rationale of it and the wisdom and the logic of it, and if we can be persuaded that what the Government want to do is something that is better for Gibraltar, or better for the Government finances, we might be willing to support it. Certainly, on the limited information that the Government have shared with us today, I have to say that my instinctive reaction is to say that I think this is a retrograde step and that, in fact, I do not see the need for it. Certainly, at this stage, given that, look, we are talking about projects after all which are not things that are going to be completed in a few months, we are at the beginning of a process where many things are still at the tender stage. The Improvement and Development Fund has no need of this money because the funding of the £25 million of capital investment from the I&D Fund, does not include making use of this £17 million. To say he is moving the £17 million this year into the Consolidated Fund to pay for the rented houses is so obvious, Mr Speaker, an attempt to say, well are the rented houses in danger if we do not move the £17 million? Well, of course, this is complete nonsense. The amount that is put in the expenditure side for the rented houses is a token £1,000, so how does he need the £17 million for the rented houses? He has not even given out the tender for the rented houses, and therefore, they certainly do not need to move the £17 million and, frankly, the Chief Minister has said it is wrong to put things in the Estimates like the changes to the Social Insurance Fund which presume that the Parliament is going to agree to what the Government want. Now we all know the fiction of the Parliament ever not being able to agree to what the Government want. In this Parliament and in 99 per cent of the other parliaments unless there is a hung parliament. But nevertheless, it is a fiction that as Parliamentarians, I think it is good for us to maintain, that it is the Parliament that holds the purse strings

and allows the Chief Minister to spend money or not spend money, when the reality is that he is the one that holds the purse strings and allows everybody else whether to spend money or not. They only spend when he permits it and not anybody else and we all know that.

**HON CHIEF MINISTER:**

As it has always been.

**HON J J BOSSANO:**

And he has always been like that, yes. But by the rationale and the logic of what he has just said we should not have in our Estimates the transfer of £17 million as part of this year's Budget, which is not permitted under the law as it stands now, and which can only happen if and when the law is approved by this Parliament. So we are actually having figures in our Estimates book which are impossible to convert into reality, unless and until this Parliament approves a change in the law, because to attempt to transfer the £17 million now would be in breach of the Savings Bank Act as it now stands, which only allows transfers, as has happened on many occasions, once we have gone over the 10 per cent target required by the law. The 10 per cent target that the Government have maintained there all the time.

**HON CHIEF MINISTER:**

Can the hon Member give way just for that? The hon Member is quite right and we did toy with the idea of, just as we have amended the Bill which could easily be done, also withdrawing this £17 million provision and then it would have appeared when we had changed the law. The problem is that when I focused my mind on this issue, the Budget booklets had already been printed and it would have required all the numbers to be re-

calculated and the Schedules reprinted. This is the reason why it is not, it is reflected in the Schedules as well as in the Bill. It is not just a question of changing the Bill. To strip out that figure of £17 million would have required several pages of the Schedules booklet also to be reproduced and reprinted.

**HON J J BOSSANO:**

Mr Speaker, I think it requires two pages. That is to say, the page where it shows it coming into the Consolidated Fund and the page where it shows it going out of the Savings Bank. If by the Schedule he means the annex to the book, I mean, in the Savings Bank page, which is page 136, the account is exactly the same as it has been in every single year until now. Except that in the column 2008/2009, it says "transfer of surplus to Consolidated Fund £17 million". The line before that has got £17,024,781 and the line after, obviously, they have taken the £17 million out, they have got £24,781. At the moment what this book shows is something that the law does not permit. The law permits what it shows in all the previous years. In fact, I think that at this point in time, we ought to have what at this point in time is the correct position in law, which is the accounts are all the same except that one line of £17 million in appendix J, would not appear and then the Government, even though it is not there now, when and if, because presumably if I am saying to the Chief Minister he would have to persuade me, I take it he will grant me the same opportunity to try to persuade him. No he will not. I was hoping for too much.

Since we are talking about the concept of parliamentary control which is entirely hypothetical, in that hypothetical parliament it is possible for leaders of oppositions to persuade chief ministers and prime ministers. Therefore, on that basis, I would suggest, it is not unheard of in the time I have been in this House, for pages to be changed because there were things there that were thought should not be shown in the way they have. Therefore, when the Approved Estimates have left the Parliament, the appendix J would say something different and the summary on

page 5 or whatever it is at the front would say something different. I actually believe it would only require, in terms of the actual book that is published and printed and distributed, the replacement of a couple of pages. Which just one line alteration where the £17 million is removed from it is not removed, and where the £17 million re-appears it does not re-appear and it stays in the place that it is until the law is changed, if we are not able to convince the Government or if the law is changed by unanimity because they are able to convince us. I commend my thoughts to the Chief Minister perhaps between now and the end of the Session, he may be in a particularly generous mood. I am not going to say anything else nasty to him, I will leave him in this frame of mind.

It seems to me then, that we are talking about the capital funding from now on being on the basis of a phrase that he used recently, which is, pay as you go. That is, you raise the money when you need to spend it. He used this phrase, in connection with the Social Insurance Fund. The £10 million of last year's budget has been repeated again this year and it seems to me that it is now really an item of annually recurrent expenditure, in the absence of any indication of fundamental changes to the funding arrangements. The changes that we have been told about are not of that nature. The level of the increase in the cap is not going to make much of a dent on the £10 million requirement, I would have thought. The fact that the three funds are merged into one, is simply a way of presenting the same information in another way. In fact, in the audited accounts we always get a page which is the summary of the funds, where they are all totalled and we get both the movement in and out of each specific fund, and then the total movement of the Social Insurance Funds globally. Indeed, it was only when the problem with the Spanish pensioners emerged in 1988, it landed on my plate when we were elected and we came up with that agreement with the United Kingdom that enabled them to carry on paying when they wanted to leave us holding the baby, that in order to separate the Fund where the United Kingdom had a liability, from the Fund which was 100 per cent our liability, we created the Short-Term Benefit Fund which was entirely our

responsibility, and we kept the Pension Fund which was a shared responsibility. Where, in fact, at the start of this saga in 1988, the level of payment to the Spaniards was something like 20 per cent higher than the level of payment to Gibraltarians. So, in fact, the Social Insurance Pension Fund separated from the Short-Term Benefit Fund was actually something like 55 per cent ODA funded and 45 per cent funded by the Gibraltar workforce through insurance contributions. Indeed, the subsequent creation of the Open and the Closed came about as a result of the United Kingdom wanting, first of all to stop the payments altogether, and then, agreeing to restore them on a freeze basis. Of course, even today, from the Closed Fund there are still something like 218 Spanish nationals who have not taken up the offer of the UK Government and continue to be paid from the local funds. But it is a very small proportion. But that was the problem that produced the necessity for breaking up the insurance side as opposed to the employment insurance. The employment insurance is in a separate Fund simply because it actually started in 1954, a year earlier than the social insurance. Employment insurance was the first thing that was started by the AACR.

Mr Speaker, when he mentioned the pay as you go concept, he said that currently the Social Insurance Fund was and had always been operated on a pay as you go basis, adding, "as I knew". He likes to come up with these things and then adds, "as the Member opposite knows", in the hope, it seems to me, that I will accept what he says at face value because I am presumed to know it. Well I have to tell him that the Social Insurance Fund has not been funded on a pay as you go basis. Pay as you go normally means that the benefits are fully funded on a year to year basis by the contributions of employed persons, so that the workers of today finance the payments to the pensioners of today, who previously contributed. In fact, since the Scheme was introduced in 1955, it has always generated more revenue from contributions and investment income than its annual expenses. It has increased its reserves in cash terms and also as a ratio of its expenditure in every year. In fact, when the Social Insurance Fund was restored in 1997, the Chief Minister

said the Government policy was that the Scheme should not be a budgetary item and not become an item of expenditure to be met from recurrent revenue, which is what it has become and what is happening today. This was said, and at the same time the Government made clear, by making indeed a provision in the Act, that it supported then and that it continued to support the revaluation of pensions annually, provided the UK could be persuaded by him to pay their share to the pre-1969 pensioners. So the policy announcement that took place then took account of the policy that at any time there was this possibility of revaluation and of bringing to an end the frozen pension regime. This, as we know, has materialised ten years later. However, when he announced that the Government policy was to restore the value of the Fund, he said that that would be met from designated income for that purpose, in 1997. That has not happened. When he said in 1997, when the new Insurance Bill came in, that he was going to restore the Fund, the word "restore" was used by him because he claimed, wrongly, that the Fund had accumulated £50 million in reserves prior to 1988, which I had inherited from the AACR, and reduced to £17.5 million by 1996, and he was going to restore it to the earlier figure. The real story as to what happened before 1996 and what has happened since is the very opposite to what he told us then. At a subsequent meeting he added, for good measure, another £5 million to the fictitious total that I was supposed to have eroded, and told this House, there is a much depleted Pension Fund. When the hon Member, (meaning me), reached office the Social Insurance Pension Fund was £55 million and as we speak today there is £15 million. That was in 1997 and I was supposed to have depleted it by £40 million. Of course, the audited accounts of the Government show the very opposite. We inherited, as he puts it, a reserve of around £16 million and he inherited from us, something like £36 million. That is to say, in the eight years not only did the reserve not go down by £40 million, they actually went up by £20 million. The Fund grew in our time and has been depleted ever since. Every year since 1997 the Fund has had a deficit which has been reducing its capital base even with frozen benefits. Following the revaluation in 2007, the Fund would have gone bust but for the annual

contribution of £10 million. It is clear from the figures that we get given in answers to questions that the £10 million and the flow of contribution income is sufficient to meet the outgoing pensions and the increases that are being added to the 65 per cent revaluation, and that the £10 million is enough for that and there is a little bit of money left over so that there is sufficient money in the pot to keep that going for several years. But of course, without the kind of reserves that the Fund has traditionally had. Now the Chief Minister may feel that there is no point in having reserves and, indeed, if the Social Insurance Fund is going to be really a pay as you go basis from now on, then frankly, one might as well not just merge the three Funds but do away with them altogether and have the money going into the Consolidated Fund and paying the pensions from the Consolidated Fund. That is not our policy and I have to say that I am not sure whether it is the policy of the Government or not, although I heard him whisper "not ours" from a sedentary position, as he likes to call it. He comes with these words which are unfamiliar in my vocabulary, furtive, fiendish, sedentary, I think he does it to confuse me.

The new system of collecting percentage contributions through the tax system for social insurance purposes makes it closer to the raising of taxation than the historical one of being the equivalent of paying premiums to earn a pension through a funded scheme. One pays to gain a benefit, everybody paying the same and everybody got the same benefit. If we are saying it is unfair that people on lower income should pay the same, well look, that is because we are talking about it on the basis of a graduated tax system that the more one earns the more one pays. The insurance system is now in a situation where it is collected through the tax and it is a percentage, and therefore, it is certainly closer to being part and parcel of the PAYE system than it used to be until this change was introduced. Whilst on the subject of the Social Insurance Fund, I noted that on page 39 of the Auditor's Report of 2006/2007, the Auditor says that he has identified the problem over the years of substantial sums being incorrectly allocated to the Gibraltar Development Corporation from the social insurance contributions, and that this

continues. The Auditor has identified on page 39, that over a number of years, sums that should have been going into the Social Insurance Fund from the contributions, have been incorrectly paid to the Gibraltar Development Corporation and that this continues to be the case and that at the time of writing the report he has asked the Treasury, the Accountant General, to identify the total amount miscalculated, to calculate what this amount is and to make the necessary adjustment. Now, the Chief Minister says he is going to take a very tough line on making employers pay the Social Insurance Fund the money they owe. I suggest he takes an equally tough line with the money he owes to the Social Insurance Fund. The Gibraltar Development Corporation received in this respect, that is, from social insurance contributions in 2006/2007 £2.6 million and in 2007/2008 the same amount is shown in the forecast outturn in this year's book. However, for the current year, this amount has been reduced to £650,000. If this indicates an annual miscalculation previously of £2 million a year, then I should like to know what steps are being taken to make the necessary adjustment and how much will have to be paid to the Social Insurance Fund. If it is as a result of the new information provided today that the change is that as from 1<sup>st</sup> July the Insolvency Fund element in the social insurance stamp is being reduced to zero, then I take it that the £650,000 is the amount that has been collected between the beginning of April and the 30<sup>th</sup> June before it was reduced to zero, when it was still a one and a half per cent, or whatever it was that the existing legislation provides. But of course, when I was doing this analysis of the book I did not have the benefit of the information that the Chief Minister has provided this afternoon. But nevertheless, the comment by the Principal Auditor is there and I think it would be valuable for us to know what the answer is. Therefore, when the Government are in a position to have that calculation made, I would not want to have to wait until the audited accounts of next year are available to find out what the amount is and how it is going to be put right, how the adjustment is going to be made. Also, I think it is important for us to know in respect of what years, because effectively it means that we would then need to go back and see what effect this has on the

performance, in terms of income and expenditure, of the GDC if in fact they have been receiving and spending money which really was not theirs in the first place. For some years there were in fact surpluses in the GDC carried forward from one year to another, which I suspect might have something to do with them getting the incorrect amount of money. Apparently because the computer was rounding up the insolvency share, and of course, although it is only less than one per cent that the rounding up is, when we are talking about the collection of many millions of pounds over a number of years, it comes to a tidy sum.

In the Consolidated Fund the recurrent revenue for last year was £19 million, as the Chief Minister has confirmed to us today, and that is the figure that we ourselves have retrieved from the analysis of the advance copy that we get of the Estimates. More than in 2006/2007 and at last year's Budget the increase was expected to be £11 million. The £8 million more, which I mentioned earlier at the beginning of my contribution, we assessed is accounted for by higher import duty in Head 2 and higher gambling fees in Head 3. Given last year's increases in cigarettes and petrol, it seems that the bulk of the £8 million came about as a result of these increases, suggesting that the higher prices had not in fact negatively impacted on the volume of sales. In fact, that it produced more than was anticipated in last year's budget. It is possible that a penny on a packet of cigarettes could be producing as much as £5 million in import duty, given what we know of the different components of the import duty. Therefore, when we had the announcement that there is going to be an increase on the duty of cigarettes, and on petrol and on diesel, the first thing that one obviously asks is, clearly, that has not been included in the estimates of revenue, because the estimates of revenue for the current year are the same as the ones that were there the year before, and therefore, we in analysing the figure in the book, without knowing that an increase was in the pipeline, came to the conclusion that it meant that they expected the same level of duty, the same volume of sales and the same amount of money.

There is in Head 3 the subhead of stamp duty, where the Chief Minister has mentioned the reduction in this year's amount because they do not think the amount collected last year is going to be repeated. Well, of course, that is implicit in putting a lower amount. We worked that one out for ourselves, but what I wanted to ask was, not just the fact that they are expecting to get less, because I can see that, but the fact that it was £1.9 million higher than the original estimate. Look, this is almost an 80 per cent under-estimation. That is to say, they expected to get £2.3 million and they actually got £4.2 million, £1.9 million more. Therefore, it would be useful if there is an indication that this was because there were some abnormal one-off transactions generating this exceptionally high level of stamp duty and that is why one does not expect it this year. Or is it that there was very high activity, say in property sales or whatever, because in fact, when I added up the figures of the monthly collections of stamp duty that the Chief Minister always provides me with at Question Time, I think by February it was around the £3 million mark. So, in March it went up over £4 million. I think if he has got some information to expand further on what he has already told us which he can give when he replies, I would be grateful.

As regards Head 3, the surplus from the operation of the Gibraltar Lottery shows £788,000 being credited to the Consolidated Fund in 2007/2008. Last year, a footnote was provided on page 128, showing an estimated surplus for 2007/2008 of £505,000 producing a carried forward balance of £476,000 to be transferred in the following financial year, that is, this year, 2008/2009. This is repeated on page 139 of this year's Estimates book, but that is not what is happening. What is happening is not what the footnote says, since the £738,000 appears on page 6, revenue Head 3 subhead 4 in the 2007/2008 column and not in the 2008/2009 column. So, the footnote explains that they are going to be doing one thing but the book shows it doing something different. Therefore, I would like to know is it that the new policy introduced last year has been abandoned and is not going to be applied any longer, or is it that the new policy has been repeated in page 139, because it

is intended to do this starting in 2008/2009 and transferring the surplus in 2009/2010? At the moment the book says one thing on one page and another one on another page and I would like it cleared up.

Head 4 shows the same estimates for rates at £14 million, as last year. I would like to know whether the increase in pre-war rents introduced for the private sector by the Housing Act, will also increase the rates payable on such property by tenants, and if so, whether any provision for this increased yield has been made in the estimates because there is no sign of it. The increased rates is £14 million and it was £14 million before. Since on 1<sup>st</sup> July this year the Housing Act provides for 100 per cent increase in pre-war private sector dwellings, my question is, does the increase in rents generate an increase in rates? I am not sure whether it does or it does not, but if it does and it means that those rates are also going up by 100 per cent, then why has that increase in rents not been reflected in an increase in the money they expect to collect? Or is it that it has been reflected but they expect not to be able to collect something from somebody else which has sort of wiped out the benefit of these higher rates? I looked at the figure to see whether there was any indication and I could not deduce it from the information available in the book, so I would like it answered when the Chief Minister replies to me.

Unlike last year, when the increase in revenue was £11 million, this year's estimates shows virtually no increase at all in Consolidated Fund receipts, since the difference is £600,000 which represents 0.3 per cent, my calculation. On the basis of the global Consolidated Fund revenue. Of course, there are two items of revenue in the appendices, one of which is the electricity increases that have been announced and the other one is the social insurance increases which have the element of the Health Authority. Clearly, we have analysed the figures that we have been provided, without the benefit of knowing that an increase was planned, and therefore, included in my statement was to ask the Chief Minister whether the £2.5 million increase in collection of electricity shown this year, which is a 16 per cent

increase, how that was explained. The explanation is that he intends to raise electricity charges this year. I have to say that he described the zero increase in revenue as conservative. I think it is the first time that the Government has estimated no increase. But of course, we know that the increases of the electricity and the health service contribution, the GPMS contribution, are included in the Estimates because they are in the accounts of the Health Authority and the Electricity Authority. Of course, in the Consolidated Fund the effect is translated through a lower contribution and lower expenditure, provided the expenditure remains at the levels that the Government have put in the Budget, which the Chief Minister explained was completely unrealistic. I mean, in terms of his exaltations to us in the 2004 Budget, that we should be here grateful to him for insisting that we exercise Parliamentary control and ensure that departments stick to the budgets, I take it that this year he is going to liberate us from that obligation if he is going to produce unrealistic budgets which he does not think anybody can keep to. I mean, is it sensible to give people unrealistic budgets? Is it not more sensible to say, well look, at the very least if other than wages if inflation is going up by 3 per cent, even that would be considered to be quite tough discipline, to keep to the real level of expenditure and one needs permission to go beyond inflationary increases. But the Government, of course, in the exercise of their judgement, bring the Estimates that they think they need to bring and that is the one that we have to approve. But approving no increase does not require a great deal of debate when it comes to the Committee Stage Head by Head.

**HON CHIEF MINISTER:**

We are not talking revenue here.

**HON J J BOSSANO:**

No, I am talking about expenditure. I have already said on the revenue side there is a miniscule 0.3 per cent; on the

expenditure side it is 0.0 per cent and he himself said, the 0.3 per cent was described as conservative, the 0.0 per cent was described as totally unrealistic and impossible. Now, why give people impossible tasks to deliver? In terms of budgetary control, well look, we are approving a budget here in the knowledge, even before we vote it, that in fact it is not going to be possible to keep to that budget. I think it has not been attempted before, to my knowledge, there have been some years bigger provisions and some years less provisions, I do not think it is a good idea to do it this way. But nevertheless, I accept that the Government have got the right to do things the way they think fit and we have got the right to look at it.....

**HON CHIEF MINISTER:**

Will the hon Member give way just to correct the record? I have not said that there is going to be 0.0 per cent increase in expenditure. I have said in my own address that we were estimating departmental expenditure to increase by £3 million from £175.6 million to £178.6 million, an increase of 1.7 per cent. Let us leave to one side the increases in the Consolidated Fund charges which is not what he is referring to. So, there is a provision for a £3 million increase in departmental expenditure and also a higher provision in supplementary funding.

**HON J J BOSSANO:**

Well, I will come to the supplementary funding in a minute. The note that I took was, that in fact it was providing for an increase on the salaries and wages but not on the other charges, that is how I understood what he had said.

On the appendices, I have noted the fact that there is this £18 million of collection of electricity and also I note that in the case of the arrears, the amount achieved was less than the amount estimated for the Electricity Authority, but I think, nevertheless, it is an indication that arrears are being brought down and I think it

is useful that we are seeing the amount collected for the current electricity sales separately from the amount that is collected in respect of arrears, because that gives us both an indication of the recurrent income and expenditure on the one hand, and also an indication of whether some headway is being made to bringing down the arrears level. I note that the Chief Minister, for the third time, I think there is some saying in the English language about being third time lucky. For the third time he has announced a blitz on arrears. This is the third occasion in the time he has been in Government. What I said on the two previous occasions was, that if it was easy to do it would have been done already. I suppose I ought to say it for a third time as well. Therefore, from our perspective, the £1 million for example on electricity arrears, we do not see that as an estimate saying, well look, this is what has to be collected but rather as a target, which is what they would like to achieve if they can. But just like happened last year, I think as long as the Government are actually bringing arrears down, at least we are not in a scenario we have been until very recently, where it was always going up but it never came down.

One element in the appendix on the Electricity Authority, is the question of the revenue from commercial work achieved last year, which was half the amount estimated. This is something that was included as part of the explanation for the supplementary appropriation that was required and which was the last Act we passed when we came here last week. I would like to know what is the relationship between commercial work undertaken and the operating expenditure? I have asked this before because I have had difficulty in seeing how it is that we put a budget for spending money in the Electricity Authority and then that budget seems to be capable of earning fees from commercial work, but the cost of the work does not seem to move up or down the same as the income from the work does. One would have thought if you do more commercial work, you get more money but you also spend more money. If you do less then both go down. But they do not seem to move up or down. For example, I cannot tell from the fact that the amount received from commercial work, in terms of income, is half and we get the

explanation, well look, because the Electricity Authority expected, I cannot remember what the figure was, but let us say for the sake of the example, let us say the Electricity Authority says, well I expect that in this year I am going to be able to earn from developers £1 million for commercial work. But it does not happen and they only get £500,000. We then get a supplementary appropriation bill saying, well because they did not get the £1 million, they only got £500,000, we now have to move £500,000 more as part of the subvention from the Consolidated Fund. But surely, the £1 million was all 100 per cent profit, there must have been some costs incurred in generating the £1 million. If one does not sell £1 million worth, how come that we see that the expenditure side shows no change? I mean, it is certainly an interesting piece of information if we actually have a department that can generate extra output with no extra resources and make money. I think we are on to something good here if that is what is happening in the Electricity Department. So, perhaps, if we can find out whether there is some element of work that involves costs and then gets billed to people, and therefore, if the work does not get done one does not bill the people, one does not receive the money but one does not incur the costs.

On the expenditure side of the Consolidated Fund, of course, as I have already made reference to, the increased electricity sales revenue is reflected in a reduced contribution of £5.3 million as opposed to £8.4 million to the Electricity Authority. So although the monies that are going to be paid by consumers goes to the Electricity Authority and not to the Consolidated Fund, the net effect is that the Consolidated Fund has £3.1 million lower expenditure. Therefore, in terms of the bottom line, at the end of the day in the difference between revenue and expenditure, the benefit finishes up in the Consolidated Fund. Adjusting for this difference, in the calculations that we have made, means that in effect the estimated expenditure from the Consolidated Fund would be up £7 million on last year's outturn. We calculated that to be a 3.2 per cent increase, so we were not assuming that there was a zero increase. But of course, we see that we did not think that this was very realistic, we think it is even less

realistic after hearing what the Chief Minister had to say, but we see then that there is this £8.5 million supplementary funding, which shows that the amount for the pay review has been reduced from £3 million to £2 million and the amount for other supplementary funding has been increased from £3 million to £6.5 million.

The other element impacting on the Consolidated Fund is, of course, the parallel move into a higher revenue from users, from GPMS contributions in the Health Authority. There is also, in the Health Authority accounts for the first time this year, this £2.5 million in revenue of medical services to non-entitled patients, which has not been mentioned by the Chief Minister.

**HON CHIEF MINISTER:**

Does he want to know it now?

**HON J J BOSSANO:**

Well, I ask the question and then I give way, which was not being shown before and which on page 129, the explanation is that the amount estimated meets the costs of the provision of this service. This suggests that, in fact, it is a book entry to the extent that it is exactly matched by the same amount of expenditure on those patients. So it means that the Health Authority says there are non-entitled patients that we are going to treat, the treatment is going to cost us, the Health Authority, £2.5 million and we are going to pass on the cost to these non-entitled patients so we show it as income and as expenditure.



**HON CHIEF MINISTER:**

Will the hon Member give way? I am happy to deal with this when I respond in due course but it is just in case he wants to question.....

**HON J J BOSSANO:**

Well, the point that I am making is that, of course, when looking at the budget of the Health Authority, we are clearly removing the £2.5 million from the equation.

**HON CHIEF MINISTER:**

Yes, he should. He is right, this is a technical issue. I have only discovered in the last few months that the figure that has been provided to me and to the House under expenditure of sponsored patients is, in effect, a net figure from which there has already been deducted the amount due to us by the UK for the treatment provision made for pensioners and UK people in Gibraltar. In other words, it is a netting figure and it is netting two things that have actually nothing to do with the other. The number of patients that we send to the UK for treatment is not really logically to be netted, except in cheque exchange terms, from what the UK owes us from our provision. I should have added this to the list of items that I gave in my speech of differences in presentation. This de-nets the figure. In other words, now we see the revenue from the UK and a much higher figure of expenditure. If he looks down at the expenditure on the sponsored patients, it is more than double, and all that has happened, not that any more or less has been paid or spent, but that the netting has ended. In other words, we are now showing the whole of the expenditure that we spend in the UK on the treatment of Gibraltar patients in the UK, and therefore, we are showing as revenue, which never used to be shown before because it was netted, the amount of money that the UK pays us for the treatment that we give to their patients. It is a reversal

of a netting operation, to show both figures that were being netted are now shown in full gross, one of the revenue and one of the expenditure.

**HON J J BOSSANO:**

Well, then he has in fact confirmed the point that I was making. Of course, going on further from that point, in looking at the provision that is being made for the Health Authority budget this year, where this netting has resulted in a situation, or rather, the removal of the netting has resulted in a situation where what we are saying is, well look, we are now going to show the amount that we are credited in the United Kingdom by the UK Government as revenue of the Authority, and therefore, we are going to show as expenditure what it has really cost to treat patients in the UK as if that amount had not been credited. So in fact, there is an item of revenue of £2.5 million and an item of expenditure of £2.5 million which cancel out. So in order to look at this year's budget in comparison with last year's budget, one has to remove the £2.5 million so that we are comparing like with like. On that basis, then, the position is that the £58.1 million this year is compared to the £59.7 million of last year. The GHA budget on the expenditure side also has the former relief cover of £1.4 million removed. This is now included in Head 15(b) of the Consolidated Fund - Supplementary Funding. So, of course, when we are looking at the supplementary funding and adding to the Consolidated Fund, and working out, as I did, the £3.2 million increase in the £7 million higher total, that £7 million higher total is because they have shifted money from the relief cover spend of the Health Authority into the new element of the subhead in Head 15(b). The Chief Minister mentioned that it happened in the Health Authority, in the Social Services Agency and, I think, in another one of the.... In the Education Department, I had not picked up the one in the Education, I only spotted these two.

Let me say that we do not support this change. We do not think it is a good thing to do and I will explain why, and I am not sure

why the change. This inclusion in Head 15(b) of the Consolidated Fund - Supplementary Funding which makes it go up this year from £3 million to £6.5 million, well look, the £3.5 million there is half the total increase of £7 million. Adjusting the figure for this change means that the Health Authority spend in 2007/2008 now goes down to £58.3 million, so that we are treating the two years as if they had been done in the same way. We have adjusted for the sponsored patients and we have adjusted for the relief cover, and we look at the two years budget and last year it was £58.3 million and the proposed expenditure this year is £58.1 million. Well look, the Chief Minister said that it was not zero. No, it is not zero, it is minus actually. It is £58.1 million instead of £58.3 million. In the Health Authority, which is one of the big spending areas of the Government, the Government is actually providing less money than was spent last year. Indeed, when one thinks that in the £58.1 million there is included an extra £400,000 to meet sponsored patient costs over and above the £2.5 million, an extra £96,000 on ground rent that was not there before, an extra £130,000 for the facility contractors that do things like clean the place, do the garden and all sorts of things like that. All of which is money that is not going into the budget of the Health Authority in terms of looking after patients. It is important to keep the hospital clean and tidy and all the rest but it goes to outside people, and a £50,000 increase for the rental payable to the Royal Bank of Scotland. Well, all this is coming out of a total which is £200,000 less than the amount that was required and spent in the year just ended. This is not zero budget. In the case of the Health Authority they are being given less money than they had a year ago. Now, I have already eliminated the two things that could distort the picture, so this is just taking the same items in the two years. It does not strike me as very realistic, to limit the approved expenditure to this level which I am convinced is bound to be exceeded, and so is the Government, and I think that it would have been better to give it a bit more leeway, frankly. Mr Speaker, it is not as if the Government was having to provide a higher level of contribution from the Consolidated Fund to finance the proposed expenditure levels. This year's estimate is for a £3 million

reduction because of the GPMS minor contributions to the GHA. So, in fact, because the GHA is getting £3 million more, instead of clawing back the whole of the £3 million and reducing the contribution from the Consolidated Fund to £5 million, the Government could have been more generous and said, well look, we will let you keep £500,000 more of the GPMS and we will take back £2.5 million. At the end of the day I think they are going to have to finish up giving them more than £500,000 in the course of this year, but we will wait and see how it transpires. But I am convinced that they will not be able to manage with the amount that we are being asked to provide here. The £3 million increase in the contribution from the GPMS from social insurance is from the people who are employed and self-employed. Therefore, the Government has had an opportunity to bring a budget closer to what it has been in the past. I mean, not only is the situation that the budget is below the one of last year's, but it is even below the contribution of £24.4 million in last year's budget and even below the £24.7 million in the year 2006/2007. In the Social Services budget, as well, and we have been told in the Education Department, we have £400,000 expenditure of relief cover that has been removed, and the provision transferred to Consolidated Fund - Supplementary Funding Head 15(b).

Let me put it to the Government my understanding of what this sub-head should be used for, given that I was the one who introduced it initially. The purpose of the sub-head from the day it was brought in, was in fact, to do away with the need that there used to be before this sub-head existed, to keep on coming back with Supplementary Appropriation Bills two or three times during the course of the year, simply because in every year and in every budget there are unforeseen circumstances requiring either additional expenditure or totally new expenditure. Look, the guys in the Treasury do not have a crystal ball so that they can identify every single thing that every department is going to need in a budget of £250 million. So, the sub-head was there to provide that flexibility. It has been used for that purpose until now. That is to say, to meet unforeseen, additional or new requirements. But is he saying that relief

cover is an unforeseen requirement? Well, it cannot be, being a recurrent item of expenditure all the time. Normally, the criteria is that if one puts a token vote, as we have in the I&D Fund and as we have had for a number of years, look, we have had a token vote on this fuel reserve for years, and the fact that it was token meant that it was just there in case something actually started happening and one wanted to have a Head into which to put the money, not because the £1,000 meant anything. So the token vote is in itself something that may or may not materialise during the year. This is bound to materialise during the year. The relief cover subheads in the Health Authority and the Agency are annually recurrent items. The logical thing would be to provide the Authorities, the Agency and the Education Department with what the Government consider to be a reasonable, realistic amount to cover the requirements for this relief, because there is bound to be some. Then, and this can be done based on past experience over a number of years of what is reasonable, if during the course of the year they come back asking for more, then they would have to make a case and then go to the supplementary funding to top it up. But this is not using the supplementary funding to top something up. This is a supplementary funding that would have to be accessed almost from day one. I would not be surprised if, in fact, before we have even voted to change the system in this budget, the situation has not already arisen where the departments have been using the relief cover Head, as they can, on the basis that we are still within four months of the last financial year and that they are able to use that money by accessing no more than was provided in last year's budget. That is what the Public Finance (Control and Audit) Act does and that is what the Financial Secretary used to permit when there was a Financial Secretary. It may well be that now since there is a Finance Minister, who likes shaking his head, the answer may be that the answer is xxxxxx. But until we change it, of course, the position is as it has been until now. I think the position as it has been until now is a sensible one, and I think the mechanism that was introduced has served us well, in the sense that it means that when people need money, they do not have to wait for a meeting of the House and a Supplementary Appropriation Bill,

and the Government can authorise, if they are convinced, that it is reasonable that they should get the money, because they could not foresee the requirement in the Estimates when the Estimates were prepared. The Parliament is supposed to be getting in front of it the public money that the departments are convinced that they require to run the service and that the Ministers have been persuaded by the Civil Servants is the correct thing to support politically and that they bring here. But if somebody says to the Government, "look, I need £400,000 for relief cover", and the Government says, "no, I think £400,000 is too much. I will let you have £200,000 and then we will see how it goes during the year and if you cannot manage and you come back and you convince me, and produce a very persuasive case. Well look, the other £200,000 has not disappeared, I have now got it in Head 15(b) and I can let you have that money without having to go and get a further appropriation from the House". That would have made sense to me, if the Government were concerned that this was an area that needed greater budgetary control. But to say to them, "you cannot spend a penny from the beginning of April", when in fact, I do not know how they manage. If a Member tells me that they have managed without any relief cover in April, May and June, then I withdraw everything that I have said and let us scrap the item altogether because we do not really need it. So, on that particular element of the explanation we got from the Chief Minister, I have to tell him that unless he comes up with some further explanation that persuades us in the reply, I think it is a mistaken move and I certainly would not recommend it.

Looking at some of the new items that the Chief Minister has brought to our attention, I said that in the context of the projects that he has announced, the argument that has been used by him in the past in terms of under-spending in the Improvement and Development Fund, has been the limitations on capacity. That is to say, that Gibraltar can have a limited volume of construction work that it can undertake simultaneously at any one point in time. In fact, the figure in the Employment Survey for last October, of over 2,000 construction workers, is the highest level of construction work for a very long time. I think

we would have to go back to the time of the Westside reclamation and the whole investment on the housing estates in order to get anything near that kind of size of construction industry. I mean, the Chief Minister is saying that there are projects in the pipeline which I do not know what kind of impact it would have on the figures, but I would say very, very substantial. I mean, if we are talking about things coming in that are going to take over as the things that are now in progress end, then nothing much is going to happen of the things that he has mentioned in the current financial year. If we are talking about things starting in addition to what is already there, then it seems to me that the problems of capacity, which he mentioned before, and the effect of capacity both on quality and on price, both of which he has mentioned before, his analysis of the situation in previous years, in previous Budgets, would apply even more in this year.

Mr Speaker, obviously in many of the other areas where the Chief Minister has given us detailed information, the problem that I have in following him straight away is that I would not be able to do justice to his explanations, as I like to do, if I have to stand up and answer him straight away.

**HON CHIEF MINISTER:**

A warped sense of justice the hon Member has.

**HON J J BOSSANO:**

That is because I am not a QC. So I will ponder on the rest that he has said, but I feel that in a Budget where there is less than one per cent extra revenue and very little more in extra expenditure, there is very little more that I can add to what I have said. Thank you.

The House recessed at 6.45 p.m.

The House resumed at 7.05 p.m.

**HON E J REYES:**

Mr Speaker, the Government remains committed to developing quality cultural activities in Gibraltar and so, therefore, in keeping with our commitment we have allocated substantial amounts for the improvement of existing premises and provision of grants to assist groups and individuals with advisory and logistical support. The formation of an autumn festival serves as an example of what this Government has provided for the benefit of our community, by offering a significant frequency of events and awareness in the world of culture. No one should really doubt the huge success of the first autumn festival held towards the end of 2007 and, which I am glad to say, is now set to become an annual event.

The festival provided a diverse range of quality events, specifically created to cater for a wide range of tastes. This programme included a spectacular magic show, jazz evening, hypnotist, book mark competition, international art competitive exhibition held for the first time at the refurbished Casemates exhibition gallery, a young performers variety concert, fashion show, rock concert, opera performance and, a long awaited return of zarzuela to Gibraltar. The popularity of a live zarzuela performance resulted in full house sale of tickets for every performance. Such was the enthusiasm shown by the audience that the Ministry of Culture accommodated a second zarzuela, this time the one entitled Katiuska, in the early part of this year, that is, 2008. Last year's spring festival was exceptionally rewarding with excellent attendances at all events. Therefore, for this year's spring festival we have striven to provide an enhanced and diverse programme as is possible. I am especially delighted to announce the inclusion of the production of the well-known Shakespeare play "The Tempest", which will be performed by the United Kingdom company named "Shakespeare for Kids". The production will run twice daily for a period of four days and free of charge entrance to this first-class

theatrical event will be exclusive for school children. We will also continue to support literature by holding, for the second year running, a short story competition for school children and this year's winners were, in fact, announced only earlier today. Innovations in this year's festival include a welcome to the festival event at Casemates Square, which consisted of children's entertainment as well as a colourful street parade with music and dance. The multi-cultural gastronomic evening named "Calentita" should once again provide a splendid festival finale. Other events forming part of the spring festival, and which I am certain the public are looking forward to, includes the spring arts competitive exhibition, dance productions, fashion shows, performing arts competitions, another zarzuela, this time the production of "Los Gavilanes", a celebration of opera, arias and duets plus popular classics, and then concerts of classic, rock and jazz music, a photographic competition and the return of the well-known and prestigious London Jewish Male Choir.

As far as venues for cultural events are concerned improvements continue to be undertaken at the Ince's Hall theatre. In addition to the new stage curtains and installation of lights and sound equipment, we are now adding new recording and projection equipment. The theatre's control room has been refurbished to provide a safe and comfortable environment in which to work, and provides technicians with a full view of the stage and auditorium. The fitting of a new loop system now assists those with hearing implements and allows them to enjoy all productions staged at this theatre.

The Central Hall has also been the subject of benefits from refurbishment. Substantial works to the roof of the building have been carried out and the venue's décor has been notably improved with new curtains and modern ambient lighting. The new lights provide subtle illumination for dances, weddings and other social events. I consider it fair to say that users of the Central Hall are delighted with the improvements and these include air conditioning and heating systems for the winter months. As a direct result of these well thought and planned out

enhancements, this venue is proving to be extremely popular and now used regularly throughout the year.

The Casemates exhibition galleries have also continued to be improved upon with the refurbishment of the fifth vault and the installation of gallery lighting. To enable users to make the most of the exhibition galleries, the Ministry for Culture has purchased materials such as exhibition tables and new hanging equipment. The exhibition galleries have been used throughout most of the year and, as a result of the added space, the success of our international art and spring art competitive exhibitions have been advanced.

The Alameda Open Air Theatre continues to receive Government financial backing, with funds having been awarded towards the improvement of lights and sound equipment.

The Ministry for Culture remains responsible for the financial aspects of the Retreat Centre. I am proud to say that the Retreat Centre is yet another success story in respect of facilities provided by this Government, as it offers an important asset that is extensively used for a wide range of different social and cultural activities. This is used by an equally diverse range of groups and individuals from our community.

Mr Speaker, I am further pleased to report that the John Mackintosh Hall continues to be a central and popular venue for cultural activities in Gibraltar. A large number of clubs and associations, many of which are also in receipt of cultural grants, regularly use the complex's meeting rooms for their meetings, that is, general meetings, committee meetings, presentations, talks and/or lectures. Over 1,200 events or meetings were hosted at the John Mackintosh Hall during 2007.

As from September last year an on-going exercise is taking place within the John Mackintosh Hall to replace traditional light bulbs for the energy saving type. With the exception of specialised stage spotlights, all lighting has been changed or is in the process of being replaced with ultra long-life extra

compact energy saving lights, which are of the highest ratings for being the healthiest and safest for the community. These light bulbs are all RoHS compliant and use lead-free soldering and a lead-free glass tube, as well as water-based adhesives to prevent the release of toxic substances during operation. I have just mentioned that two very successful zarzuelas and an opera were held in Gibraltar during the course of the last few months and these were held at the John Mackintosh Hall theatre. Yet another two zarzuelas are now scheduled to be performed in this theatre during 2008. One took place in the early part of April, that was "Los Claveles" and "Los Gavilanes" will be staged as part of the 2008 Spring Festival being performed later on this week. This Government is committed to continue investing in the John Mackintosh Hall facilities. This year should see the replacement of stage equipment, such as hoists, and specialists from the United Kingdom will carry this out. The works will include upgrading and additions to stage lights, resulting in a more energy efficient system. Furthermore, some seats in the theatre will be repaired and other changes will mean new seats being swapped over. The John Mackintosh Hall has been enriched with the purchase of over 600 new titles and the Children's Library is now scheduled to be redecorated. Overall, this Government aims at maintaining the John Mackintosh Hall as Gibraltar's prime centre for cultural activities.

Mr Speaker, turning now to some of the events and festivals that will be held during the remainder of this year, I am pleased to say that the Ministry of Culture is finalising arrangements for the Miss Gibraltar Pageant, for Summer Nights, the Fair, National Week and National Day celebrations, the International Art Exhibition, the Autumn Festival and New Year celebrations. Further details in respect of these exciting projects will be released in due course.

I firmly believe that this Government's commitment to culture has helped deliver a greater frequency of events and opportunities for the cultural enrichment of our community as a whole. Mr Speaker, I wish to take this opportunity to thank all those groups, association and individuals who give so

generously of their time, in producing and delivering cultural events for our enjoyment. Their talent and enthusiasm is as welcome as it is vital and, therefore, I would urge others to continue making use of our wide range of facilities on offer.

Turning now to heritage, for which I also have responsibility, I would like to re-affirm the commitments given by my predecessors to the wonderful and rich heritage of Gibraltar. Three years ago my predecessor, while reporting on the progress made in recent years in the field of heritage research and management, drew attention to the four cornerstones of the Government's heritage strategy. I would like to remind hon Members of these as they form the road map to all our activities. The four are: knowledge and information; public awareness and access; stewardship and, finally, economic and social benefits. I will take these in turn so as to provide a summary of Government's intentions on heritage matters for the forthcoming year.

In respect of knowledge and information, I must say that research is at the centre of the development of a knowledge and information base from which management, protection and promotion of heritage can be launched. I think that it is right that I should start by highlighting the highly advanced stage of our "Gibraltar Heritage Database" which has come about as a result of the huge strides in research that the Heritage Division has undertaken over the past few years.

For a place the size of Gibraltar, and with resources far more limited than larger states, our knowledge information base is incredibly advanced. This has a lot to do with the dedication of individuals within our Division, but it is also the result of continued Government commitment towards supporting such work. It goes without saying that it is Government's intention to continue to support such research as it forms the very core of our understanding of our past and how best to protect that which defines our people and our homeland. This year we will continue to provide support to the international project, proudly led by the Gibraltar Museum, which investigates the wonderful

record in our prehistoric sites, and most importantly Gorham's Cave. My predecessors have reported on the exciting discoveries that have been made in recent years and which have attracted worldwide media attention. It is my intention this year to see for myself the arduous and dedicated work that will be done in these caves during the summer field excavation season. During the time when most people are away on summer holidays, our scientists, together with colleagues and students, put in round the clock efforts to tease out yet more information about our rich past.

Indeed, as I speak now, members of the Gibraltar Museum team are directing a project with colleagues from the Universities of York, Southampton and Huelva, off the seabed of Gibraltar. This work currently being undertaken is part of the underwater project named "GIBRAMAR", that my predecessor first announced in the 2006 Budget and recalled last year. After two seasons of exploratory work, a full-blown project is now well underway. We have to bear in mind that these major projects are on a level with the best in the world today in terms of scientific excellence and technology. They take time to prepare and manage and it is indeed a remarkable achievement for our small community.

Research takes many forms and this Government will continue to promote archaeological excavations, both planned as I have just described, or unplanned as a direct result of works that uncover bits of our past. In this last year we supported work on the proposed new road around the airport runway, to ensure that such works would not damage any important archaeology. In particular, we supported excavations that confirm that the new road will not damage the site of the old Devil's Tower Road. This type of work shows our commitment to protection through research, because by doing this research ahead of infrastructure works, we ensure that potential conflict between heritage and development is minimised. At these and other works we will have our experts at hand with a watching brief. In recent times such work has also included assistance offered to the Royal Gibraltar Police in forensic work and investigations.

The second point was public awareness and access. My predecessor highlighted the promotion of our heritage as something that the Government was attaching great importance to, and I wish to emphasize now that commitment. It is vital that we are fully aware at all levels of the importance of our heritage, but it is just as important that we make the outside world aware of this. In this respect, we will support a number of initiatives this year and these will include a continued commitment towards heritage publications. Here I would like to draw attention to the Government's support of local and personal histories written by well-known local persons who have made a significant contribution to our Gibraltar. Last year, two such books were published and we are keen to continue to support existing and new authors who may come up with new ideas.

This Government will continue to support Parson's Lodge as a field centre, with the aim this year being to build on what we have achieved since last summer, when the Gibraltar Museum began works there. I am pleased to report that we now have a field station at Parson's Lodge that accommodates researchers and students coming from abroad throughout the year. This was a much-needed facility and one that has permitted the research budget to be stretched even further by reducing costs in respect of accommodation and subsistence. During this year, we will be looking at ways of expanding the facility to be used as part of the Museum's successful schools programmes, and we will also explore ways in which public access can be offered while safeguarding health and safety concerns.

I do not want to move on before stressing the sterling work that the Heritage Division is carrying out with its initiative to make our heritage accessible to every school child on the rock. Collaboration with the Ministry for Education continues, and I am hopeful that further educational resources will come on stream as a way of increasing the local heritage provision in our National Curriculum. Last year my predecessor made the point that despite many excellent books written about our history, there was no up-to-date complete history of Gibraltar. To

produce such a history will be a major task, but something that we now consider necessary. I wish to emphasize my personal interest and support for such a project and I sincerely hope that the educators and our Heritage Division, will find time in the near future to get this project off the ground.

Last month I opened the wonderful, new outdoor gallery at the Museum which is an excavation that reveals the way people relied on water since medieval times. I encourage all hon Members to go and see for themselves this wonderful piece which offers all visitors direct access to recent urban excavations. I am further proud to say that we shall continue supporting the renewal of exhibits in the Museum as part of a continuing process within the umbrella of public awareness and access.

An important part of our annual programme of events is the Calpe Conference, an initiative taken by this Government which is now in its twelfth year. My predecessor announced this year's theme during the last Budget speech, as planning for this international event is on a two-year time scale. I remind hon Members that this year the conference will be on the theme "The Evolution of Identities" and for which we have managed to attract once again very well-known and high profile speakers. Next year's speakers have now been secured and it promises to be a very special occasion as it will deal with the subject "Human Evolution – 150 years after Darwin". We should all feel proud in having secured some of the world's top speakers in this field, and I am pleased to say that we are attracting considerable interest from the international scientific media. Our own contribution to next year's Darwin's anniversary, will be another landmark in our long-standing commitment of developing Gibraltar as a centre of excellence in this important field of study.

Mr Speaker, I must also report that we shall continue building upon our good liaison with the Gibraltar Heritage Trust, both through the Heritage Action Committee as well as through specific meetings. Contacts continue to be maintained with the

Friends of Gibraltar Heritage Society in the United Kingdom and, this year, Dr Geraldine Finlayson of our Heritage Division will be their guest speaker at their annual general meeting to be held in Warwick.

The third point was stewardship. The protection of our heritage follows from all this since without this protection the rest falls apart. The Government will continue to fund projects that conserve our heritage, and the Government's urban renewal programme will launch further ways of achieving this. In this task we will focus on an area-by-area approach. Some projects require a large amount of planning and capital but, we are also keen to promote smaller scale projects showing off our own heritage. An area that I am particularly keen to improve upon its present appearance is that between Southport Gates and Ragged Staff Gates. This, I think, will involve a general sprucing up of the area. During this last year we have modernised security measures in the Gibraltar Museum, with new CCTV cameras and new doors, and we are currently embarked on a major programme of repairs to the roof of this important building. The collections at the Museum have increased dramatically in the last few years, so I consider this vital to ensure that the best protection possible for these items be made available. This Government will continue to support such improvements as well as security measures. In the same manner as I have already reported in respect of the John Mackintosh Hall, I am pleased to say that the Gibraltar Museum has also embarked in an exercise of changing its lighting system into less energy-demanding lights.

The fourth point was economic and social benefits. Here I take this opportunity to remind the House of the success of the recently opened King's Bastion Leisure Centre. Through this project we have a perfect example of how we have integrated the conservation of an important heritage asset, and its interpretation as such, with ways of improving the quality of life of our citizens. There are clear economic and social benefits in this project that makes it a milestone in Gibraltar's heritage history, and it also marks the way forward for future projects



along these lines. Not all schemes have to be on such large scales. Therefore, we will continue to link all the dimensions of heritage that I have just described in order to reap benefits of an economic and social nature wherever possible.

In conclusion upon heritage matters, I am confident in saying that I see the coming year as one of further improvement on all fronts of Gibraltar's heritage. This Government has achieved huge success in the past year and we do not intend to rest on our laurels, but rather, we will build further upon these achievements for a better Gibraltar.

Mr Speaker, I turn now to sports and leisure and commence by reporting that during the financial year 2007/2008, the Gibraltar Sports and Leisure Authority continued to build upon and improve the work carried out in previous years by the Sports Department. The work undertaken by the Sports and Leisure Authority is in respect of provision and management of sports facilities, including community use of school sports facilities after hours; technical support, assistance and advice offered to sports associations and schools, where required or requested; training, support and development of sports projects through the Sports Development Unit; financial assistance offered through the Sports Advisory Council; allocation of facilities for non-sport events; and the provision of health and fitness generally.

I am pleased to say that teams from overseas have, over this past year, visited Gibraltar both to play and/or train on our impressive facilities, and these visits have greatly assisted the development of many sports locally as well as enhancing our profile abroad.

The programmed development of the Bayside Sports Centre facilities has now been almost completed, and these wonderful facilities are used regularly and with ever increasing popularity.

The multi-sports games area was temporarily used at Bayside as an alternative venue for the Sandpits Tennis Club, whilst works at the club's courts were taking place. These works

resulted in brand new tennis and paddle tennis courts being provided and which, I have no doubt, will contribute towards the improvement of standards in these now popular sports. Upon completion of the works at Sandpits, the multi-games area at the Bayside Sports Centre reverted to its original intended use. However, thanks to the availability of portable tennis posts, this area now offers additional tennis facilities to the already established permanent tennis court housed within the Bayside complex. The boathouse and water-sport facilities are already in partial use and full use of these facilities are expected shortly, once the on-going snagging process is completed.

At this stage, Mr Speaker, I would like to highlight that the multi-sports games area, that is the area situated between the Tercentenary Sports Hall and the hockey pitch, which was designed to double-up as a concert venue with a capacity of 3,000, has been successfully used for various non-sports events. Further events at this venue are planned for the future and they already include a reggae festival to be held in early August, and an international dog show for September.

The Sports and Leisure Authority continues to provide support, assistance and advice to local schools and associations in the provision of facilities and equipment, and also in the organising of events such as the two international darts tournaments and the very successful fitness awareness day held just a couple of weeks ago.

A well-known and respected international sports federation, namely the European Division of the Commonwealth Games Association, chose Gibraltar as the venue to stage its committee meeting last month. The United Nations of Ju Jitsu has also chosen Gibraltar to stage its annual congress and competitions, with these being set to be held in the coming month of October. These two examples demonstrate the standing that Gibraltar has now proudly achieved at an international sports level. On behalf of the Government, the Ministry of Sports will continue to support such initiatives.

The Gibraltar Sports and Leisure Authority have now assumed responsibility for certain operations in the recently opened King's Bastion Leisure Centre. The Authority provides supervisory services and operates the ice skating rink, the youth lounge and the disco areas, the latter in partnership with the Gibraltar Youth Service. I am pleased to say that the Leisure Centre is proving to be a great success as a family orientated facility, and its facilities are being enjoyed by the majority of Gibraltarians and an ever-increasing number of visitors to Gibraltar. As an expansion of services provided, the Sports and Leisure Authority is arranging the provision of ice skating classes. This will be introduced as part of the summer sports programme and will then continue beyond the schools' summer holidays. It is also expected that a fitness gym will soon be operational at the Leisure Centre.

The Sports Development Unit successfully expanded upon the summer sports programme for youngsters offered last year. This expansion included a wider variety of leisure and educational activities, and I am most proud to say, the increased variety was very well received by the younger members of our community. Expansion will also continue this year as even more facilities and sports will be made available. Full details of the summer sports programme will be published shortly through a detailed booklet, and this will be widely distributed.

The Sports Development Unit has also had a very positive feedback of the physical activity sessions, which includes swimming and aquaerobics for the over-50s, that are jointly organised with the Gibraltar Senior Citizens Association. These physical activities provide the young at heart with training in a safe and fun atmosphere with any necessary equipment being made available by the Sports and Leisure Authority.

For the second year running, and in partnership with both local and international experts, a very successful health and fitness awareness day was held a couple of weeks ago. A very large number of persons of all ages participated on the day, and its success was expanded thanks to an awareness campaign,

carried out both before and after the event, thanks to the local media. The aim of this event was to encourage the community to lead active lifestyles and to provide information in respect of the facilities, resources and programmes available. Once again, Mr Speaker, I take this opportunity to thank all volunteers, as well as the staff of the Sports and Leisure Authority, who made this day possible.

The number of National Coaching Foundation courses, together with other generic coaching courses from the British Sports Trust, Speed Agility and Quickness International and the Youth Sports Trust, run for local coaches, continues to increase in order to meet demands. Assistance and support has also been provided to sports associations in the organisation of accredited coaching qualifications in athletics, basketball, football, shooting, squash, badmington, 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 days, thus ensuring that many teachers and coaches have been able to achieve some level of accredited qualifications, which then, subsequently, places them in a position to assist the development of sports in Gibraltar. The objective remains to eventually achieve as much self-sufficiency as possible in the delivery of coaching and training.

The Sports Development Unit, in partnership with the Social Services Agency and the Cardiac Rehabilitation Group, also introduced schemes of outdoor activities for our older age group. The Sports Development Officer is now a member of the Gibraltar Health Authority's Health Promotions Committee. Following a visit last year by UK sports officials, two members of our Sports and Leisure Authority staff achieved accredited UK tutor status for the "100% Me" drugs free sports programme, and since then, they have started to deliver workshops to various local sports associations.

Gibraltar's sporting fraternity will once again participate this year in many official international competitions. These include the

recently held four nations semi-professional football tournament in Wales, where, despite not winning any of their three matches, our GFA squad proved to be worthy opponents giving the other far more experienced teams some tough competition. Other official international competitions will see Gibraltar's representatives competing in hockey, basketball, sea angling, darts, ten-pin bowling, netball, athletics, swimming, snooker, pool, rowing, shooting, squash and triathlon championships. The Gibraltar Sports Advisory Council, and in particular its sub-committees, have been meeting regularly and following on from the advice offered to Government by this Council, financial assistance has and will continue to be made available to sports associations through our now well established funding procedures.

With the support of the Sports and Leisure Authority, local associations will be holding international hockey, basketball, sea angling, ju-jitsu and darts competitions locally during this coming year. Furthermore, other events, even if not necessarily enjoying full international status, will also be hosted. I am confident that all of these events will provide our sportsmen with invaluable competition and serve to expose Gibraltar and its assets, whether sporting or otherwise, to a wide range of visitors.

Government, will again be providing £130,000 this year to enable participation by a large number of teams, from over 20 different sports, to compete internationally and locally at different levels in officially recognised competitions. In addition to this, a further £150,000 will be provided by Government to finance Gibraltar's participation in multi-sports official competitions, such as the Strait Games, the Island Games and Commonwealth Games. In other words, on the advice of the Gibraltar Sports Advisory Council, Government will be maintaining the financial provisions which will enable many of our sportsmen and sports ladies to proudly represent Gibraltar at international competitions.

I take this opportunity, to highlight to all hon Members that we have indeed come a long way from the previous administration's financial provision towards international competitions. The amount of funding now available for international sporting competitions has increased almost sixfold since this Government came into office in 1996. Not only have we increased the provisions which I have just highlighted to a total of £280,000, but we have also provided £86,000 for the Sports Development Fund so that the Sports Development Unit may work together with different sports associations and, thus, provide for a large number of sport specific coaching courses and other development projects to be held in Gibraltar. The Sports Development Fund is completely separate and additional to the £280,000 I have previously mentioned.

Sports facilities have been greatly enhanced in Gibraltar with the coming into operation of the Bayside Sports Centre facilities. Furthermore, the excellent and exemplary cooperation that exists between the Sports and Leisure Authority and the Ministry for Education and Training, ensures the continued use of schools' sports facilities, through the community use scheme and for the benefit of all sports lovers.

Funding is once again being provided to refurbish premises for allocation and use by clubs and associations, although this is not restricted to sport and youth societies, but rather, for premises in general. In relation to this, a study is being carried out, in partnership with the Heritage Division, to look into the feasibility of refurbishing South Jumper's Bastion on similar lines to that previously done at North Jumper's Bastion. Likewise, other areas are also due to be looked at for such purposes.

I am also pleased to inform this House that the existing project to provide rehearsal facilities for local bands and musicians is now nearing completion. This project is being undertaken in conjunction with the Rock on the Rock Club and the Gibraltar Youth Service. The Lathbury Barracks Retrenchment Block is already well under way in its refurbishment and it will very soon provide extra premises for allocation. Government sees

projects such as the ones I have just mentioned as a means of supporting the very valuable and active volunteer sector that we have all traditionally boasted about.

The new swimming pool suitable for use by the elderly and disabled, as well as for the teaching of non-swimmers, serves as yet another example of this Government's unprecedented focus on and commitment to improving the quality of life of its citizens. Exclusive use of this facility for the elderly and disabled is made available over the summer period, in fact it started on 1<sup>st</sup> June, and it is shared with the Gibraltar Amateur Swimming Association and education establishments during the winter months.

The Gibraltar Sports and Leisure Authority has also assumed responsibility for the old 25-metre swimming pool. As a result of this, swim joggers, sports persons and, indeed, any other citizen wishing to use the pool, no longer need to pay a subscription fee to any club to do so. Both swimming pools are extensively used and the number of users, when compared to previous years, has increased threefold. The current successful arrangement means that GASA is now able to continue their sterling work towards the promotion and development of swimming, without having the financial pressure and responsibility they have been shouldering until recently. I believe it is fair to say that this move has benefited everyone.

Leisure facilities will continue to receive a high level of support and, for this reason, the Authority was designated as the Gibraltar Sports and Leisure Authority. In partnership with the Ministry for Family, Youth and Community Affairs, the Royal Gibraltar Police and private sponsors, the Hargraves play area was refurbished during the course of last year and is now popularly in full use. The King's Bastion Leisure Centre has become a highly popular venue and within this complex the Sports and Leisure Authority, as I previously mentioned, operates the ice skating rink as a recreational activity.

Mr Speaker, this House must surely recognise the significant advances that have been made in the field of sports and leisure over the past 12 years thanks to the continued commitment of this Government. It is our firm intention to keep building upon these advances because we fully recognise that sport and leisure make very valuable contributions to Gibraltar's quality of life. Therefore, we will continue to improve facilities and support our local sporting and recreational associations in their efforts. Government recognises and is very appreciative of the significant work and commitment so tirelessly demonstrated by the large number of volunteers who run local clubs, associations et cetera. Their continued dedication ensures that sport and recreation thrives and develops in Gibraltar, and they can continue to rely upon this Government's support in their work for the enjoyment and benefit of our community as a whole.

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

Mr Speaker, I will be reporting to this Parliament on my ministerial responsibilities for education and training, giving an account of progress during the past financial year and pointing to future developments planned by the Government, many of which are either totally or partly budgeted for the forthcoming financial year.

I will start with 14-19 developments. My Ministry is keeping a watchful eye on current developments on the 14-19 front. The controversy that rages on in England as to whether the new diplomas will replace the A-levels or not, will have obvious implications for our public examinations and qualifications system. A review of the A-levels is planned in the UK for the year 2013 and no decision will be taken until then. Diplomas are employer-designed qualifications at Foundation, Intermediate and Advanced level, combining theoretical and practical learning. There have already been 14 diploma qualifications announced in the UK as pilot schemes, with the first five being construction and the built environment, creative and media, engineering, information technology and society,

health and development, beginning in autumn 2008. All of the diploma qualifications will include a basic skills element in English, Mathematics and Information Technology. As Members are aware, the task of successfully adopting and adapting as we have to the 14-19 curriculum in our secondary schools and the College, is largely based on advice received from a steering group made up of relevant school practitioners and the Department's advisory staff. In fact, it is thanks to the group's work and the efforts at all three secondary institutions, that already a wider subject choice is now available to all 16 plus students, through a consortium put together by these three institutions.

**Professional Development.** As part of teacher's professional development we continue to offer certificate and diploma courses in school leadership and management. These courses have been offered in conjunction with Sheffield Hallam University in the past and now Durham University and have proved to be of value, given their well-balanced structure that includes theoretical aspects, as well as practical actual research, based in schools.

**Teaching and Learning Responsibilities (TLRs).** The TLR restructure in schools is already well underway. TLR payments came into effect on 1<sup>st</sup> April this year, for those teachers converting from a management allowance to a teaching and learning responsibility. The exercise is already making good progress with the first batch of new vacancies already processed and interviewed. It is envisaged, that the TLRs will be fully operational in schools as from the new academic year, with existing management allowances being progressively phased out as TLRs replace them. As a matter of information, I can inform the House that TLRs are allowances payable to teachers and constitute significant responsibilities that primarily focus on five main areas. One, is teaching and learning. Two, the exercise of a teacher's professional skills and judgement. Three, a teacher leading, managing and developing a subject or curriculum area, or leading and managing pupil development across the curriculum. Four, the educational progress of a

significant number of pupils, other than the teacher's assigned classes, or groups of pupils. Fifth, the leading, managing developing and enhancing the teaching practice of a significant number of staff.

**In-Service Training.** This financial year, apart from its advisory role, the Advisory Service has also provided in-service training sessions in schools on the following: a three day introductory course on dyslexia, in collaboration with the Gibraltar Dyslexia Group, involving special educational needs coordinators or other representatives from all schools; information and communication technology and new technologies; school improvement through ICT and self-evaluation, also emotional intelligence, teaching and learning styles and parenting classes.

Pupil/teacher ratios are also significant and interesting. I would like to report to the House that the total complement of teaching staff on a permanent and pensionable status in our schools is currently 333, as opposed to 288 when we came into office in 1996. The average teacher/pupil ratios in our schools fare well compared to schools in UK and, indeed, other European countries. In First Schools, that is up to 8 years of age, the average ratio is 1 to 14.7, the agreed median with the Union for class sizes at this level is 1 to 20. In Middle Schools the average is 1 to 19.2, the agreement with the Union is a maximum of 1 to 25 and in Secondary Schools the average is 1 to 16.4. There is a certain amount of distortion there because of A-level classes which tend to fluctuate and are usually very small because of subject specialty. The overall average is 1 to 16.6 and this, of course, does not include St Martin's School or the Gibraltar College.

**Pre-School Education.** Mr Speaker, we continue to run all eight Government 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. The highest demand continues to be for placements during the morning sessions.

However, we are able to offer every child either a morning or an afternoon placement. So every child can be catered for.

New courses for the community at the Gibraltar College. Students with learning disabilities are attending a new three-term social and community skills course that has been prepared for the Social Services Agency in partnership with the Gibraltar College. The course is aimed at enabling the students to increase their social and community skills within an environment that will raise their profile and enable other students on the other courses to benefit from their presence in the College. The ten students completing the course will cover a range of subjects to include healthy lifestyles, developing positive relationships and increasing independence by developing a range of skills. A very special course for very special people.

A new health and social care course will be offered in September at the Gibraltar College and will provide young people with the skills and training to enable them to seek employment within the growing health and social care sector. It is a course that includes theoretical and practical elements, aimed at people who are interested in working in the field.

There is also a leisure and tourism course, which is designed to get young people to fully understand the nature of the leisure and tourism industry. This course is aimed at young people wishing to seek employment in the sector, or simply understand how the industry works, especially in the light of the contribution this industry makes to our economy.

Young enterprise. This September will see the launch at the College of the Young Enterprise company programme. The programme will offer A-level students the opportunity to create real businesses in a real market environment. The College is linked to Young Enterprise Yorkshire and Humberside, and is working in partnership with the Gibraltar Federation of Small Businesses, the Chamber of Commerce and Barclays Wealth. This is aimed at giving students real experience in company

start-up as well as the running of a business. In other words, a first step towards entrepreneurship.

Mr Speaker, I now move on to higher education. The fact that every year over 40 per cent of our annual intake gain access to higher education is proof of our undeniable success in preparing our pupils throughout their school career for public examinations. The statistics speak for themselves. In 2007 the GCSE pass rate A\* to C grades were 67 per cent and A-level pass rate was 97 per cent. In both cases above the average in the United Kingdom. The number of students in UK universities and colleges this academic year, as at the end of May, this last month, is 521. Mr Speaker, tuition fees for students studying at UK universities are now being, as we know, administered by the UK Student Loan Company. EU students, including of course students from Gibraltar, have entered the same system. However, it is of utmost importance to note one important difference. Whereas UK students need to commence repayment of their loans, tuition fees and so on, 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 onto students. It follows that even though we were required to alter the way in which we dealt with tuition fees as a result of changes in the UK, as from September 2006, our students can rest assured that the Gibraltar Government will continue to assume all repayment obligations to individual students who complete their courses successfully.

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 wide-ranging courses such as interior design, music technology and health and safety.

Mr Speaker, as part of our on-going commitment towards enriching the cultural experience of our students, a group of senior students and teachers from both our secondary schools

recently accepted an invitation from the socio-cultural association of Mar del Sur, to travel to Seville in the company of Spanish students and their teachers. It is hoped that this trip will have given our students the opportunity to establish links with other students and to sample the enchanting beauty and cultural and historic richness of that vibrant city.

I move on to special educational needs. In keeping with good 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 SENs (special educational needs) will continue to be educated in mainstream schools, alongside their peers, always bearing in mind what is realistic and affordable. Therefore, specialist provision will continue to be provided at St Martin's for those pupils for whom mainstream school is not appropriate, with suitable outreach programmes implemented, based on the needs of the individual. Additionally, learning support facilities in mainstream schools will continue to operate for those children whose needs cannot be met at St Martin's or in mainstream classes. In order to implement such a policy effectively, the Government has well-qualified teachers in this area of education in all our schools, and a number of Classroom Aides, who support children with SENs as well as nursery children.

The Department makes specialised 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 with limited vision. There is also a younger pupil who has other learning needs and also a visual impairment, and that child is at St Martin's Special School.

The services of the Educational Service for Hearing and Vision in Hull have been employed by the Department to provide all concerned parties with specialised support, and every term a peripatetic teacher from their Service visits us on a consultancy basis, so that the schools together with our own Special Needs

Adviser, plan the programme for the students' education. Once a year the mobility officer from Hull also visits to support the work of the Occupational Therapist assigned to these two students to plan their mobility programme. The Classroom Aides attending to these children have completed their course in Braille. Equipment and technology for this area of special needs is highly specialised and the Department has made a considerable financial investment in this area. The Society for the Visually Impaired in Gibraltar and the Disability Society have also been supportive of the schools and the parents.

Extra curricular activities. Following good education practice, our schools provide outreach programmes to create awareness in pupils of issues and opportunities in the wider community, outside the confines of the school. Indeed, it is the norm today, as many of us may know, for universities in assessing applicants for entry, to look for evidence of experience and commitment in activities beyond the strict framework or confines of the school curriculum. All our schools, therefore, continue to organise a large and varied number of extra curricular activities for their pupils, including fund raising for major charities, such as Childline, Breast Cancer Support, Jeans for Genes, Action Aid, Cancer Research, the Bonita Trust, We Care Scheme and so on. Educational trips both in Gibraltar and abroad are also organised and these include visits to archaeological sites in Spain, visits to our museum and other places of local interest to. Secondary and Middle Schools in particular, organise trips to the UK for a variety of sporting and cultural activities. Both First and Middle Schools also involve their pupils in cultural and educational trips to Spain. A trip which has now become an annual event on Bayside School's calendar, is a visit to Cordoba as part of the Muslim civilization component of the Key Stage 3 History syllabus, years 8 and 9 students will spend a few days, in fact later this week, visiting the mosque, the Alcazar and Medina Azahara as part of a very comprehensive itinerary. A large number of clubs and activities are also organised by the schools themselves as part of these extra curricular activities, and these include, chess clubs which are increasing in popularity, guitar and ocarina club, dancing, ICT, art,

horticulture, sports activities including inter-school competitions and science clubs, to name but a few. Schools also participate in Christmas carol concerts, arts competitions, the annual flower show, story and poetry competitions, the Clean up the World Campaign, music festivals, chess competitions, their annual sports and fun days, heritage events, World Environment Day, on Thursday I believe, Shakespeare for Kids, plus a host of other competitions and events organised by a range of entities, private and public, such as, for example, the Strait Games, that involve the participation of school children and teachers from Gibraltar, Spain and also Morocco.

One extra curricular activity that I wish to highlight here, is the impressive effort made by our schools, staff and pupils, in raising funds for charity. During the current academic year the extraordinary sum of £45,000 was collected by our schools through a whole variety of activities, for a range of local charities and international agencies. I am sure that all of us in the House wish to put on record and express our appreciation to the children and the teachers in all our schools for this magnificent display of solidarity and social conscience.

Under the heading of “extra curricular activities”, I also want to inform the House about the work experience project carried out by the secondary schools and the College. This academic year over 400 students were placed for a week in areas of employment, ranging from a number of Government departments, workshops and garages in the private sector, banks, hotels, medical establishments, legal firms, retail outlets et cetera. In the light of the educational developments, which I have already explained, work experience is of significant importance in our students preparation for future careers, as well as in obtaining places in university.

Yet another extra curricular activity and one that has developed and increased in significance over the last three years is the Careers Fair organised by the three secondary sector institutions under the auspices of the Ministry for Education and Training. With the support of an increasing number of private

sector employers, as well as Government departments, the Careers Fair offers a vital and enriching environment allowing employers and potential employees to meet and discuss the realities of what is now a highly competitive job market both in Gibraltar and abroad. In today's fast changing world of work, with continually expanding technological and other requirements, there is a clear need to keep future employees who are still in school, fully abreast of what will be required of them. In bringing public and private sector employers as well as other service providers together in one venue, in partnership with schools and the College, the Careers Fair provides a practical face-to-face dimension and the opportunity for students and parents and enhances what is covered in the personal, social and health education programmes undertaken by students in schools and the College.

New school buildings and infrastructural works. This Government continues firm in its belief that education and training remains one of the most valuable and necessary investments that we make in Gibraltar, present and future. It is our most valuable legacy to future generations. As part of our commitment to improving our educational product, scope and requirements plans are now underway to embark on two major new school building projects for the primary sector. The first is the refurbishment of the old St Bernard's Hospital to house the First and Middle schools and nursery in that area. The scheme is part of Government's integrated strategy for urban renewal. It will not only restore a landmark building which has been obscured for decades, but will open up and enhance an area within the Upper Town that our community has been deprived of and deserves to enjoy. Our vision is one that aims to create quality urban areas without our environmental, heritage and socio-economic agenda. Such a project will involve the demolition and removal of unsympathetic alterations which have been added to this once fine Victorian building. The original fabric will be exposed and this building will become, once again, an architectural landmark housing quality educational facilities in the Upper Town area. The second scheme will see another significant investment in our educational facilities, with the



building of another school in the area of the MidTown project, that will cater for the demographic shifts of the primary sector population.

I am also pleased to announce that the Ministry's main office will be moving at the end of June/beginning of July, from its present location in Town Range to a fully refurbished former USOC building in Commonwealth Parade. The new site has almost double the floor area compared to the current old and rather cramped building, and it is situated on Queensway next to Commonwealth Parade car park, making it much more accessible to the general public.

I move on to minor works completed. The following minor works were carried out in schools during the 2007/2008 financial year. At St Joseph's Middle School there was a variety of repairs, from paintwork carried out in three classrooms and also substantial repair work to another classroom. The costs of both items was £25,226. At St Joseph's First, stabilisation works were carried out to a retaining wall at a cost of £18,018. St Paul's First School had repairs on part of the roof, further works will be carried out this summer and the works have been staggered in order to avoid disruption to the school's curriculum. The cost of this is £63,939. Notre Dame First School, the playground was resurfaced at a cost of £43,890. At St Anne's Middle School, the roof of the old building was repaired; classrooms, toilets and corridor on the top floor were treated and painted, all at a cost of £117,738. In St Martin's Special School, one unit, unit 4, was also painted and decorated. At Bayside, two laboratories were refurbished and this completes the laboratories programme now. Works on the installation of the lifts commence towards the end of the year and will be completed during this financial year. Some windows in the geography and history areas were replaced, all of this at a cost of £286,523. At Westside, the project to replace carpets with linoleum throughout has been completed, over £7,000 there. Bleak House also had works done to floorboards and beams at a cost of over £52,000. At the Gibraltar College, the roof of the technology area was repaired and a number of classes were

treated and painted, enhancement of the technology workshop, all at a cost of £35,234. In terms of security works, which interested the hon Member during the course of the year, of course no more interested than we are in this, intruder alarms have been fitted as follows. Westside at a cost of £9,300; Governor's Meadow at a cost of £4,499; Bishop Fitzgerald at a cost of £5,117, and all of this, of course, in addition to the intruder alarms already installed in St Martin's and special lighting at St Joseph's First and St Joseph's Middle. We are currently awaiting estimates for Bayside and Notre Dame First School, as the programme continues to bring greater security to all our schools.

Projected works. I note that the Opposition Member is very pleased to hear this, I am glad. Projected works for 2008/2009, Westside School will have a new kitchen and a dance studio constructed. At Bayside, air conditioning units will be installed in the exam room. Two lifts will be installed, the kitchen used for food technology will be relocated, an intruder alarm will be installed and a disabled toilet with special doors will be fitted. Gibraltar College will see five fire doors fitted and major repairs will be carried out to the administration area. Bishop Fitzgerald Middle School, refurbishment of the intercom system on the entrance door. St Anne's, shower room infrastructure refurbishment, the middle floor will be painted. St Joseph's Middle, mini basketball facilities to be installed, the gymnasium will be fitted with floor markings. St Paul's First School, repairs will be carried out to the roof. St Mary's First School, there will be repairs made to the roof as well. St Bernard's First School, basement area and staircase ceiling will be painted, repairs carried out to the staircase as well. At St Joseph's First School, the playground will be resurfaced. Notre Dame First School, the hygiene area of the special unit will be refurbished, intruder alarms will be fitted. Governor's Meadow First School, windows to be fitted with special locks, lunch hall wall repairs, the perimeter fence to be extended. Varyl Begg Nursery, the entrance area will be enclosed. St Martin's School, the car park will be refurbished. At Bleak House, to finish this detailed list of all the works that will be carried out during the course of this

year, so that there is no doubt whatsoever left in our minds as to the interest that we place in having good schools in our system. The timber floor at Bleak House training facility will be replaced as well as the corridor fascia boards on the first floor.

With that I now turn to training. Responsibility for the organisation of vocational apprentice-type training schemes and centres was passed on to the Ministry for Employment following the last General Election. However, before I report on the professional and general training provision which continue to be under the responsibility of the Ministry for Education and Training, I wish to mention the following interesting and encouraging details appertaining to the period prior to this change.

As at 1<sup>st</sup> April 2007, there were 184 trainees, 101 male and 83 female, enrolled in the Vocational Training Scheme. During the period 1<sup>st</sup> April 2006 to 31<sup>st</sup> March 2007, a total of 70 trainees from the Vocational Training Scheme were able to secure permanent employment. Many of the VTS trainees benefited also from attendance at classes in numeracy and literacy, by following a syllabus set by OCR, which is the Oxford/Cambridge and RSA Examining Board, and an additional option of undergoing training in information technology, thereby attaining certificates accredited by the RSA in computer literacy and information technology. This was also offered at Bleak House training institute, with all tuition classes delivered by suitably qualified teachers. Qualifications achieved in respect of these courses were as follows. Literacy Level 1, there were 20 passes and there were also 20 passes at Level 2 which is equivalent to GCSE at Grades A to C. This is literacy and similar results for numeracy with 35 passes at Level 1 and 16 passes at Level 2 and 10 passes at Level 2 of the CLATE.

I turn now to public and private sector training and other activities. The expansion and development of training programmes on which I shall now be reporting, have been impressive and, indeed, very significant in the light of the importance being given in today's society, not only to

professional development but also to that of life-long learning. For example, IT courses in Microsoft Office Word and Excel at beginners and intermediate level commenced in April 2007 for the Civil Service and run until the autumn. We have a total of 295 participants. Government Departments carry out specialised training, specific to their function at our facilities at the Bleak House training institute as follows. Technical Services, for example, had a number of courses, confined spaces training; specialised health and safety training; this was working at heights; fire risk assessment; working underground; safety in excavation and also basic health and safety. City Fire Brigade had breathing apparatus maintenance courses carried out there. The Customs Department had competent persons and confined spaces training, whatever that means. Social Services Agency had train the trainer course; working with children; safeguarding children courses. Human Resources Department had employment law; managing absenteeism; managing discipline and misconduct courses. All of these courses and more that I will read out now, in a magnificent facility as is Bleak House training institute. The Gibraltar Health Authority had learning in action management course. The Environmental Agency had City & Guilds refrigerant handling course. The Royal Gibraltar Police had entrance and promotion exams and first aid courses there. The Environmental Agency carried out presentations of new projects for the public there. Human Resources Department had recruitment and selection interviews there, as well as entrance exams.

I turn now to private sector training and other activities. Local private sector companies continue to make use of our facilities for their in-house training development programmes. These include courses such as induction courses, customer care courses, management skills, delivering client satisfaction, breakthrough for emerging leaders, and a number of other courses. Also private training companies also use our facilities to deliver their courses which are marketed locally. Recent courses have included creative problem solving; conflict management; time management; supervisory skills; customer care; leadership and management skills – all courses that

enhance the product that we have out there in the private sector.

I now turn to ICT courses for senior citizens, extremely popular, of course. A total of 72 senior citizens participated during February and March 2008 in our very popular senior citizens basic courses on ICT which run at Bleak House. These lifelong learning courses are currently running and will continue until June, until some time this month. Due to its demand, in fact, now an intermediate, a further course at an intermediate level, has now been introduced. The course is designed to offer training in basic skills such as word processing and e-mailing and, of course, no tuition fees are payable by our participants.

Examinations. Another important sphere of activity is the delivery of public examinations and Bleak House is also an examination centre for the Open University; the Chartered Insurance Institute; the Institute of Chartered Secretaries and Administrators; OCR and AQA. AQA is assessment and qualifications alliance. In addition, Bleak House hosts examinations regularly for local students undergoing distance learning courses with various UK professional bodies, such as the College of Law; BPP Law School; the British Computer Society; the Association of Corporate Treasurers; the Chartered Institute of Personnel and Development; and a number of UK universities. Re-sit examinations are also held for Gibraltar students on behalf of various UK universities during the summer period. This, in fact, reduces the financial burden to families greatly since students do not have to return to the UK to re-sit examinations, if they are able to arrange it in this way. Bleak House is also now in its third year as a Pearson Vue examination centre and these examinations are delivered electronically on demand, which allows students the flexibility to arrange their exam times around their work schedules, and choose the date most suitable for them. Most popular examinations of the past year were in financial services, with the Institute of Financial Services, the School of Finance and IT with Microsoft, CISCO and CompTIA. Pearson Vue also delivers the UK exams for A-level students applying for courses in medicine

and dentistry in the UK. In the past over 100 candidates have undertaken this examination.

Maritime sector. I am pleased to inform this House that our maritime student undergoing training to obtain an Officer of the Watch Certificate is progressing well and will be completing his studies in June this year. In partnership with local shipping companies, it is envisaged that further scholarships will be offered this year, to enable young people to undergo training leading towards Officer of the Watch qualifications. In fact, the advertisement inviting applications for these scholarships has already been published. Standard of training certification and watch keeping basic courses have also been offered during this past year at Warsash Maritime Centre.

Accountancy training. The Department of Education and Training once again continue to offer subsidies to students undertaking the Certified Accountancy examinations known as ACCA, and like wise also, subsidise students following CAT, Certified Accounting Technician courses. For both of these courses the Department has offered evening classes in preparation for respective examinations and the beneficiaries have been both from the private and public sectors. As in previous years, following from a request made by the Federation of Small Businesses in November 2007, a subsidy is made available for training leading to ISO 9001 accreditation by local companies. Also Investors in People, the Government of Gibraltar through the Department of Education and Training, hold the necessary licence to offer in Gibraltar accreditation with Investors in People, a programme of training sessions aimed at assisting companies to prepare for formal assessment by Investors in People is already being delivered in Gibraltar in conjunction with the University of Durham. In July 2007, we had the first three Gibraltar organisations to be awarded IIP after international assessment. Although we still have organisations in training, we are nearing the end of the pilot project and expecting to have Gibraltar fully accredited as an approved IIP country very soon.

Public sector management courses. Opportunities have once again been offered to public sector employees, to follow management courses delivered by Durham University's Business School and accredited by the Chartered Management Institute. At present, there are 44 Civil Servants participating in the organisational management programme, 42 of whom completed and passed the certificate stage in March 2008. There is also public sector specialised training for individual departments. Our facilities have also been put to very good use by individual Government departments for public sector specialised training as follows. For example, the Department for Transport had an advanced driving instructors examiners course there. The IT & Logistics Department have had IT executive training. The Youth Office, similarly, have had courses there, the RGP, the Treasury, Income Tax and Education Departments have had accountancy training and so on. Attorney-General's Chambers have had anti money laundering courses there, the GHA has had health and management courses, Human Resources Department on employment law and so on. A note on the Civil Service as an entity. Once this year's estimates of revenue and expenditure are approved, the Department of Education and Training will be in a position to carry out a comprehensive funding exercise which will enable the various Government departments to embark upon further specialised professional training for their own staff. It is the Government's intention, to ensure that Civil Servants remain well trained and fully updated in their respective specialisations, by following accredited courses both in Gibraltar and the United Kingdom.

To conclude, the House will no doubt appreciate that this Government's major investment in schools, in teaching as well as ancillary staffing, in educational equipment and materials, in scholarships generally, in the attention given to the individual needs of children, in the vast provision of professional and vocational training, all of this shows the very high priority that the Government give to the educational and training needs of our society in the 21<sup>st</sup> Century.

In thanking all the members of staff in schools and the College, as well as the Ministry for Education and Training and the Bleak House Training Institute, who through their hard work and dedication ensure a continuing and ever increasing level of attention and service to our pupils, students and the public in general, I wish to end my contribution on this occasion by recalling a short yet hugely significant, in my view, comment once made in this House by my predecessor and good friend, Bernard Linares, when he said, I quote, "we must all strive to create a society where people matter more than things". Thank you.

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

Mr Speaker, it is incredible how things are seen differently, depending on the side one is on, so different, yes. Last year I said that the address I was giving then, was the last Budget address to be given to this our new Parliament before the General Election. This is obviously the first to our Parliament after the General Election. Although we are not addressing Parliament from the Government side, as I stated, but it has become clear from the close results of the past election, that the majority of people in Gibraltar are frankly fed up with the GSD Government since there are now more people who want them out than actually support what they do or want them in Government. This GSD Government is still only interested in spin, photo opportunities, in prize giving ceremonies, in continuously bowing down to the needs of the rich, trying to create grandiose projects which they hope will work but the jury is still out on that. Worse of all, now glorifying themselves with lush offices and delivering, at a very slow rate, pittance to the rest of the community and still trying to give the impression that everything they do and say is either a school of excellence, excellent or state of the art. During the course of my address I will demonstrate what I am saying.

I would therefore start with the portfolio of Government Services, which covers a wide range of Government

departments. One of those Departments is Customs. In 2005 in his Budget speech, the Hon the Chief Minister came to this Parliament, the then House of Assembly, and told all of us how wonderful his Government was, as he does usually and has done so today. The reality is that whether he thinks his Government is wonderful is one thing and whether he delivers wonderful things to others is another. He said in 2005, amongst other things, that the business organisations, and he said it today as well, have historically criticised two public services that they rely on most. One of these was the Customs Department. He said that during the financial year, that is, the year 2005/2006, he was going to carry out a review of the Customs Department. He has announced this year, again, that he will be discussing and moving on the Customs Department. Three years on, not only are we still awaiting anxiously for this review but so are the business community that he mentioned, and most importantly, people on the ground, that is, the whole Customs staff and management. He said, and I quote, "this financial year and with the support and participation of staff and Unions, we intend to carry out a root and branch review of the Customs Department, including its functions, methods, resources, premises, staff and management structures and roles. We hope to improve the service to the business community and other users and also to improve the department for the benefit of staff as well as to maximise the effectiveness of its revenue collection". The Government then commissioned a report, this Government usually does, and two Customs and Excise experts came from the UK to carry it out. Well, to date, no one really knows what the report contains, since probably the Union and definitely the staff, have not even been given a copy of the report. So what has happened in the last three years? Well, at least three things we know have definitely happened during that time.

Firstly, is that his very effective, efficient and extremely conscientious Chief Secretary has retired earlier than he probably might have, probably tired of the Chief Minister. He was effectively handling the review. Now he has gone. The first part of the Chief Minister's statement that I have just quoted

from, has gone down the drain and the communication between Government and the staff side and management is virtually non-existent. The second thing that has happened is that the Government will no longer be criticised by the business leader, since we all know who he is and where his interests lie. Thirdly, the Government's main ally in the Union has gone to greener or yellower pastures, depending on how one sees it. He is no longer representing the Union but is sitting beside him now, I am afraid he is not sitting beside him now physically, but usually does because neither the Chief Minister nor the Hon Mr Montiel are here now. So, now we have a Chief Minister saying he will be meeting staff, management and the Union again.

Moving on to the Fire Brigade. We have seen the true colours of this Government not being clear to this Parliament, stating things that were not quite correct. But that is an issue that I would rather leave to one side at this time. The Fire Brigade Department, which has traditionally been an example of efficiency, professionalism, dedication and has served the community admirably, is now being demotivated by the petty decision of not allowing some family members to go into the Fire Station to speak or be able to take some food or necessity to a fire officer on duty.

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

Point of Order. That is not correct.

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

Can I ask what the Point of Order has been? I mean, there can be things that are subjective, which the Minister might believe are right or wrong, but can she explain what the Point of Order is?

**HON MRS Y DEL AGUA:**

That he has made a false statement.

**HON S E LINARES:**

Can the Minister then state what I have actually said that is not true.

**HON MRS Y DEL AGUA:**

That family members are not allowed into the station. That is not true.

**HON S E LINARES:**

Well, I leave this debate for another day.

**HON J BOSSANO:**

Mr Speaker, the Minister answered a question saying it was true.

**HON F R PICARDO:**

Exactly. During the last Question Time we were told that only serving officers of the City Fire Brigade would be allowed into the station. Now, on the basis of what the Minister said then and what she has said now, is it possible for her to clarify what the position is for the purpose of this Parliament and those who may be listening?

**HON MRS Y DEL AGUA:**

Yes, that in discussions and conversations between the fire fighters and the Chief Secretary, the concession was given to allow family members to enter the station. So, therefore, what Mr Linares has said is a false statement.

**HON F R PICARDO:**

It is a statement that, obviously, was correct on the basis of the information that the Minister gave the Parliament. The information the Minister has given now is not information that has been made either publicly available in the media, or that she has bothered to come back to this Parliament to correct the information that she provided last time. So I think, on that basis, she should withdraw the allegation that the hon Member has said something that is false, because based on the information that he had and that the Parliament had, what he said was actually quite true and quite right.

**MR SPEAKER:**

Well, the position I understand is the hon Member made a statement in the course of his contribution today that members of the family are not allowed into the Fire Brigade premises for the purposes of delivering food or other similar incidental purposes. The Minister has challenged that statement as being untrue. My recollection, there was some debate on this in terms of the Question Time at the last sitting, I remember there were a number of questions asked on that. My recollection, again, of those questions and answers was that there was some sort of limitation on the right of family members to visit the Fire Brigade premises. Matters now seem to have moved on and we are told by the Minister today that that matter has been resolved in a different manner. In all fairness, it is unfair to accuse the Hon Steven Linares of making a statement that was untrue. It appears to be correct from his recollection and mine at the last

Question and Answer session. Perhaps we could leave it at that and allow the hon Member to continue.

**HON S E LINARES:**

Thank you, Mr Speaker. I must remind Members that my Budget speech is based on what Parliament and what people say in Parliament, whether at Question Time, other Budget speeches or whatever. What happens after are things I am not privy to.

Carrying on with the same theme, whether families do go or not.

**MR SPEAKER:**

That has changed a bit since then.

**HON S E LINARES:**

Yes, but if the policy that is probably now being implemented, where certain people are allowed in and some are not, if that policy decision which is under the disguise of security continues, the ones that will be affected will not be the firemen but the community at large. This is because if no one, only family members, are allowed into the station as is currently imposed by policies from Ministers, then people like schoolchildren who sometimes visit the station on projects will not be able to go. The same will happen with scouts and guides who visit the station. Also, young students from the Comprehensive like the Hon Mr Beltran said, will no longer be able to go there to do work experience because there would be, surely, a breach of the security policy.

We have seen in the last few months how power cuts are becoming more frequent. The Government's plan on electrical power is, frankly, a disgrace. We have, on the one hand, the

previous Minister for the Environment, telling us all how Gibraltar needs to look at alternative energy and giving us all a lesson on how this was going and how the Government are looking at different ways of producing energy. We even had articles written and a Viewpoint programme on the subject. On the other hand, we had the Chief Minister stating in this honourable Parliament that they are in the process of commissioning, and today he has announced that he is already in the process of tendering out, a new power generating station and an incinerator that might produce electricity and water. The old incinerator being out of action for a very long time now. Why the delay? It is clear by these statements that the left hand does not know what the right hand is doing. It is clearly an example of Ministers saying things in public, using spin and PR, and then we all see how it is undone either by Convent Place or by default.

The highways, that is our roads, are another Government service that is failing miserably due to decisions made by this GSD Government. Due to the unplanned and inconsiderate developments that are currently going on, the state of our roads is a disgrace with pot holes everywhere. This Government announced in 1996 that a new prison was needed and to date it is still under construction. What this Government ignores is the needs of the inmates at present. For the past one or two years, the inmates as well as the prison officers are enduring conditions in the prison that are inhumane. Reports have come to me that some of the cells do not even have proper sanitation facilities, with inmates having to do their necessities in a bucket. Many other facilities are lacking. The one that will not be solved, even after the new prison is in operation, is that of providing proper and well organised rehabilitation programmes for inmates, to try to mend their ways and equip them with some skills in order to be employable at the end of their sentence. I have asked questions to this Parliament to the Minister responsible. I was frowned upon by them as if I had said something out of the ordinary. In any civilised Western society, rehabilitation and trying to get offenders back to normal life is the norm.

In relation to culture, we have the Theatre Royal fiasco, which can now easily be categorised as the biggest blunder any Gibraltar Government has ever made, which has cost the taxpayer to date well over £4 million and nothing to show for it. It is incredible that this Government have the cheek of going round saying that they are still planning to do the theatre in the same place.

**HON C G BELTRAN:**

Yes indeed.

**HON S E LINARES:**

I hope the Chief Minister does not hear him because the other Minister is saying things somewhere else and then he gets his wrists slapped. All I can say is that they should be concentrating on and have still not done so, sorting out the mess of the Music Centre, which is in a derelict state. The Government cannot continue to hide behind the fact that there is a Trust which is supposed to be looking after the Centre. The Trust was formed by this Government, the old BFBS building was also given to the Trust by this GSD Government, and it is therefore the responsibility of Government that this very needed Centre is up and running in a manner that the music fraternity deserves. It is clear that Ministers again say in public things which are then denied in Parliament and, unfortunately, the denial is then not reported in the media, in order to give the impression that they are under control and know what they are doing.

On the education front, and by the way, it seems that the Minister has invented education and education started post 1996, as if nothing before 1996 happened. May I remind the Minister that he was a teacher before 1996 and he was in the education system then.

**HON C G BELTRAN:**

So was my father before then.

**HON S E LINARES:**

Exactly and I am glad the Minister has said that. He has just proved my point. Nothing happened before that. He continues saying "the previous administration". Anyway, the new school that they originally promised way back in the last century, was going to be in the old site of the Naval Ground. Then they said it would be in the reclamation in front of HMS Rooke. Now they are still reviewing the situation and again, to date, we still are not sure whether it will ever see the light of day. I am still predicting, as I did last year, that it will not be ready for children to attend the school until the year 2012 at the earliest. London will then have generated the East End and built the Olympic Village.

Again, as I mentioned last year, the overcrowding of Bishop Fitzgerald, Governor's Meadow and St Anne's Schools will continue for four more years. This will mean yet another generation of children being educated in sub-standard conditions such as is currently the case in Bishop Fitzgerald School. Bishop Fitzgerald and Governor's Meadow Schools are currently located in an old MOD school, the life span of which was 20 years, and it has well surpassed its sell by date. Portacabins are being used as classrooms and the building is crumbling at the seams. I remember when I was the President of the GTA and a teacher at that school, we agreed, that is with the present Government, before we moved from the College, and they promised us that they would be replacing each wooden block every year until there were no more temporary structures left. But as is typical of this GSD Government, they did the admin block and some classes in Governor's Meadow School and left the rest to rot. The thing is the Minister seems to have selective hearing. Well, the thing is that I have heard it so many times by his predecessor, this is the first Budget



speech that he has given as an Education Minister. He should have been hearing all the other Ministers saying the same lists and things year in and year out.

**HON C G BELTRAN:**

Point of Order. I have not repeated the same list, this is a new list of works that have been carried out. I have not repeated the same lists that were mentioned by my predecessor. These are works that were completed last financial year and I have also given the list of works that will be completed this financial year. So that is a false statement.

**MR SPEAKER:**

As statements go in this House, it is not really a statement out of order, it is a political observation and we have to allow it. Take it in the spirit in which it was made.

**HON C G BELTRAN:**

Absolutely.

**HON S E LINARES:**

Another case of neglect, and he did mention it and I did listen to him, and I did listen to his predecessor many times, is the case of St Bernard's School, which this Government was and still is for the past God knows how many years, going to re-site now to the old St Bernard's Hospital. Again, to date, we have not seen any movement on that front and he has mentioned this as a vision. God knows when that vision is going to take place.

Nursery education is another topic that I have asked many questions about and all we get from this Government is, like he

stated today, the ones that increased nursery places when they came in...

**HON C G BELTRAN:**

That is true.

**HON S E LINARES:**

Yes, absolutely it is true, of course it is true, and his grandfather was also in school before 1996 is true.

**HON C G BELTRAN:**

And the population is bigger.

**HON S E LINARES:**

Absolutely.

**HON C G BELTRAN:**

That is absolutely wrong, the school population is not bigger.

**HON F R PICARDO:**

The school population might not be bigger, the population of Gibraltar is bigger.

**MR SPEAKER:**

Order, Order. The Hon Stephen Linares has been very patient and is allowing a lot of heckling, more heckling than he should.

**HON S E LINARES:**

At least I am putting some interest into the debate, since all we get from the Government is how good they are, so now they are listening to the other side. This Government, what they needed to have seen in the nursery education is that we need to even develop more than what they have done today, in order to fulfil the needs of our society, because offering, like they do currently, half a session a day is not enough for our society. That is the point I am trying to make on the nursery education. There is a lack of foresight because it is not a question of supplying more places, but looking into the demands of a changing society. Let us not forget that the increases in places are only for half day sessions and our society requires that it is changed, that there are more sessions.

In the last Question Time, I asked whether the report made by ROSPA (Royal Society for the Prevention of Accidents) was going to be published. The answer I got was that it was a document for the Department in consultation with teachers, headteachers and other agencies, to formulate policy. Previous questions that I have asked on the subject have been the same, saying things like they had to follow a proper protocol and that they had to consult different agencies and interested parties et cetera. Well, if this is the case, why has a copy not been sent to date to the Union, to its representatives and why has a copy not even been given to the headteachers in order to discuss and formulate policy? Again, this is yet another example of giving the impression that things are being done by starting them, and give the entire media fanfare and then it seems to stop, when it is realised that it takes a lot of money and effort to complete it. Could it be that the report shows that there is a lack of maintenance in schools and that more investment in this area is

needed and that this Government have been giving the impression that they spend a lot of money? Give the impression that they spend a lot of money but in reality it is that the spending money on school maintenance will cut down the possibility of this GSD Government of doing grandiose projects?

At the other end of the education spectrum, we have less and less students being awarded discretionary grants, and the funding decreased or staying stagnant. As we said in the Elections, students are crying out loud to be able to have the opportunity to do a further and higher degree or qualification, because our society demands this. We see more and more of our students come back from UK with a degree and realising they will need further qualifications in order to compete with the labour market in places like the Finance Centre.

In relation to teachers, it is incredible that this uncaring Government, despite the fact that it is aware of the injustice to those young teachers that are currently on a permanent supply basis, and the Chief Minister acknowledging that they should at least be given a contract so as to minimise the disadvantage of rights, and being able to be in a position to obtain a mortgage, that is if they are lucky to afford a house, this Government drags their feet and nothing has yet moved on this issue, which is festering to the detriment of the young teachers involved. The implementation of the TLRs, I have heard, is going really slow. Another example of spin.

Mr Speaker, despite the fact that the statistics of attendance of children at school is well below that of attendance in the UK, nothing has been done in relation to truancy, which is one issue which I have been flagging out since I became a Member of this Parliament. Again, we see this Government doing absolutely nothing to bring legislation to Parliament, but even worse, not analysing and recognising that there is a problem. But instead, rubbishing, as we have seen this afternoon clearly, those who dare to say anything that Government do not want to hear. We have heard again from the Chief Minister, projects which are announced budget after budget. Take for instance the prison,

announced in their manifesto in 1996, it seems to be going now hopefully, sometime maybe this year or next year. It is still under construction. Take another example, the new school which I mentioned. Announced in the year 2000 and annually since. Urban renewal, announced around the year 2000/2001. I could go on and on.

In conclusion, we have a Government that instead of concentrating on what affects the citizen, they do and think of grandiose projects. They forget the reports and reviews which tend to end up in the office of the Chief Minister in a corner, while he is concentrating on expanding his wings. Or it could be that he needs more space in which to file these reports and reviews, because this GSD Government is working incessantly to refurbish the building at the old MOD Educational Centre situated by Commonwealth Parade by Queensway, in order to re-site the whole of the Department of Education down to the said site. Why is this being done? Well, apparently, it is to make Convent Place bigger and to extend into what is now the Department of Education, or probably some other institution or institute might be there. It is going to be interesting to know how much this move and the new offices of the Minister for Education down at Queensway will cost?

**HON C G BELTRAN:**

And the Director as well.

**HON S E LINARES:**

Yes. Mr Speaker, I have finished my Budget speech this year and all I would like to give notice now is that I will be having a set of questions which I would like the Minister to answer at Committee Stage, to do with the actual spending and how they have reallocated money in different places. Thank you.

**ADJOURNMENT**

**HON J J HOLLIDAY:**

I have the honour to move that this House do now adjourn to Wednesday 4<sup>th</sup> June 2008 at 9.30 a.m.

Question put.                      Agreed to.

The adjournment of the House was taken at 8.55 p.m. on Tuesday 3<sup>rd</sup> June 2008.

**WEDNESDAY 4<sup>TH</sup> JUNE 2008**

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 Enterprise, Development,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism  
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

### **THE APPROPRIATION ACT 2008. (CONTINUED)**

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

Mr Speaker, I proceed to report on my new post-election portfolio which comprises health and civil protection. The City Fire Brigade has responded to 1,464 calls between January and December 2007. These can be classified as 141 actual fire calls; 504 emergencies; 406 requests and 159 ambulance attendances. There were 223 fire turnouts with good intent, three bomb alerts and five special services. The Brigade was called out on 22 occasions to false alarms and to one bomb hoax. The Brigade also mobilised the ambulance service on 3,513 occasions. The Civil Contingencies Committee, best known as C3, has over the past year been carrying out a revision of its emergency plans and testing these through a

series of exercises. Although all plans are frequently revised, two in particular have been the subject of major changes. These are the air crash plan and the radiation emergency response plan. The main changes to these plans reflect Government's commitment and obligations under the Civil Contingencies Act, resulting in the widening of responsibilities and assuming control of the required planning and command over operational matters. Both plans were tested during table top exercises followed by two scale exercises involving over 300 personnel. The next stages of development in civil contingencies entail the establishing of a centralised equipment store, which will hold equipment as recommended by departments and which will be made available to them during any major incident. A proposed training programme is now receiving final consideration by the frontline emergency services. Additional staff to assist the Civil Contingency Coordinator are in the process of being recruited.

I turn to our health services Mr Speaker. A lot has been said and written by the Opposition Members about Gibraltar's health service, particularly about St Bernard's Hospital, either through official Opposition statements, or more freely, under the cover of the printing mediums at the party's disposal. Everything that comes out of the mouths or pens of the Opposition Members in relation to the GHA is negative, mostly distorted, at times completely untrue, and obviously intended to undermine public confidence in our health service. In fact, they go to the petty and childish extreme, not befitting mature politicians, of refusing to mention the words "St Bernard's Hospital", continuously referring to it as "the converted office block". When they direct their vicious, unbridled and often personal attacks at me, I take it with a pinch of salt and a degree of amusement. For example, only one month after having taken over my new role, the Hon Mr Picardo, who does not even shadow the health portfolio, had this to say about me, and I quote, "unfortunately for all users of the health service, Mrs Del Agua now brings her legendary incompetence to the post of Minister for Health, fresh from having wreaked havoc at the Ministry for Social Services". This sort of personal attack does not cause me any grief, I take it for

what it is, a venting of Mr Picardo's political frustration. It does not cause me any grief, primarily because I do not believe there is any substance or truth to his comments, and secondly, because it is obvious that the general public do not believe it either. It is clear that if the public thought that I am a legendary, incompetent havoc wrecker, Mr Picardo would be sitting in this side of the House and I would be sitting in the Opposition Benches or at home. What does worry me greatly, is the Opposition's systematic and sustained crusade against the GHA. The Opposition Members need to realise that when they fire indiscriminately and continuously at the GHA, they are firing at everyone who works in it, and I know that they are extremely careful not to include the greatest vote-catching section, that is, the staff, in their criticisms. But their strategy is failing them. Many of the alleged incidents that they highlight and which according to the Opposition are always the fault of the Minister or management, necessarily involve the nurses, the doctors and other members of staff. Mr Speaker, I can safely say that no one on the Opposition side of this House has more respect and values more the work of the staff than I do, because I am privileged to witness their dedication and commitment at first hand. But if it is the case that people at any level are not doing their job properly, I am the first to recognise that it is totally unacceptable that patients and users of the health service should potentially suffer the consequences. The Opposition Members, if they truly and sincerely want to be constructive and help improve our health services even further, should have the political courage to point the finger wherever it needs to be pointed, if indeed it needs to be pointed at all. More importantly, however, they should research alleged incidents more carefully before making them public, because if they are untrue or correct, as happens on many occasions, it only serves to unfairly and undeservedly undermine and demoralise the staff. I have already said publicly in a recent GHA staff award ceremony that I consider the vast majority of the staff to be hard working and committed individuals, and that they deserve to have their work publicly recognised and acknowledged. But even this was criticised by the Opposition who via their printing medium ridiculed the award ceremony, saying it was over the

top and that we all thought we were Hollywood actors. I can assure Opposition Members that the recipients of the award and their families were not amused. I gave the staff a commitment that I would ensure that the good things, which by far outweigh the bad, get reported to the press and media and that is my intention, as much as Opposition Members might dislike it or criticise me for it.

I will now provide the detail of this past year's development in the GHA and I will then outline the plan for the new financial year. Starting with nursing services. The nursing service has continued to implement its nursing, midwifery and health visiting strategy. Over this past year this service has focused on improving the quality of nursing care plans. They have also implemented a performance development plan for each member of the nursing staff. The commitment of both management and staff is evident in the increased number of training sessions now on offer and the increased take up. The introduction of the 12 hour shift has improved the continuity of care and reduced sickness absence. Mr Speaker, the GHA has made great strides in nursing education and development. The third nurses conference was another unqualified success with over 200 staff attending over the two days. The training programme was also enhanced by specialised training sessions for midwives in the care of sick newborns. New services on offer include endoscopy, sleep apnea and haemofiltration in which training has also played an important part. Clinical audit is now part of the nursing practice within the GHA so that hard evidence of clinical improvement is now becoming available. The nursing staff have recently produced two DVDs. One is entitled "Nursing Innovations 2007/2008" and the other "Hospital at Night". The DVDs depict areas of our health service which have been developed by nurses themselves such as nurse led clinics. The nursing staff have themselves chosen the words "change, progress, vision and excellence" to summarise these developments. With your leave, Mr Speaker, I would like to pay tribute to them by quoting from some of the comments they make in their DVD presentations regarding developments and improvements in their areas. May I add that I have sought and

obtained their permission before mentioning their names in my Budget speech. Clinical Nurse Manager Sandy Gracia had this to say, "In the Medical Investigation Unit nurses have introduced and expanded nurse led clinics to include endoscopies, stress testing, halter monitoring and spirometry. We carry out assessment services and look after patients' needs pre-operatively and post-operatively". Infection Control Practitioner Kenneth Orfila had this to say, "In the Infection Control Department, following the strategy set out by the GHA, we have appointed a second infection control nurse and we have started the infection control link nurses group which will play an active role in policing and implementing infection control practices and procedures throughout the GHA. This year we have started the smart-up campaign which introduces better communication and better understanding on hand washing techniques, to further reduce any infection rates and we are also going to start this year the below the elbow campaign to further reduce any infection rates to ourselves and to all the service users of the GHA". Clinical Nurse Manager and Bed Manager Wayne Barton had this to say, "In recent times I have had a more physical presence in the actual wards and departments to work at grass root levels with staff members. This increases communication, good cohesion, good team spirit and good team work. By working together the patient will ultimately benefit as well as the staff". Clinical Nurse Manager Kevin Sercombe had this to say, "Training and development has been introduced very successfully in our organisation at night. In fact, it is an area where we feel we should blow our own trumpet as no training and development at night seems to be carried out in any NHS hospital within the UK". Charge Nurse Tyrone Smith had this to say, "Our monthly senior night nurse meetings are usually the point of conception for most night duty policies and protocols. These meetings first started approximately three years ago, following our move from the old St Bernard's Hospital. The idea of these meetings was not to have night duties as a separate entity but to bring it in line with the major transformations happening in the GHA". Charge Nurse Bryce Soiza had this to say, "The implementation of a new appraisal system, together with on-going training needs analysis process,

enables us to continuously identify the night staff's training and motivational needs. Our incentive scheme is aimed at helping the staff expand and grow. Developing individuals to their maximum capacity increases productivity and improves the effectiveness of the GHA. The ability to meet individual needs is evidently raising the night staff's morale and job satisfaction. We are proud to have an established active learning environment for the night staff that promotes a culture for life-long learning". With those words from our local nursing staff I move to medical services.

2007 saw the continued development of all medical services. All consultants were appraised and some of them have been trained to be appraisers. There was very good attendance at the weekly medical education sessions with each group in the medical service presenting sessions. There has been on-going development of the respiratory service with bronchoscopy, sleep apnea testing and assessments for oxygen therapy increasing significantly. Vacancies in consultant psychiatry, obstetrics and gynaecology have been successfully filled. The clinical governance activity included complaints review, risk management, regular meetings of the audit committee, reviews of clinical incidents and a review of the Department of Surgery. The academic activity of the medical staff included very successful presentations at conferences in Ceuta, Barcelona and Vienna.

Turning to mental health, Mr Speaker. As part of the GHA's three year plan, the complement of mental health staff in psychology, psychiatry and occupational therapy has doubled and a counselling service has been added. Staff morale has increased significantly which is demonstrated by a very positive response from patients and a very significant reduction in patients' complaints. The KGV activities team won this year's GHA team award.

Primary Care services. The implementation of the primary care strategy got a great boost with the signing of the GP contract and with the additional recruitment of a physiotherapist and a

nurse practitioner. Within the child health programme, we have seen the implementation of the pneumococcal vaccine, further enhancing Gibraltar's excellent reputation in childhood vaccination rates. A special breast feeding room was added to the Centre. Three nurse-led clinics, also depicted in the DVD that I mentioned earlier, have been very successfully implemented. One is a service for children suffering from nocturnal enuresis, which in simple terms means bedwetting. This condition causes great anxiety and embarrassment to these children. Staff Nurse Susan Benitez leads the clinic which is held every Tuesday, and she won the GHA's Patient Care Award for this excellent initiative. The other is a cryotherapy programme within the dermatology service, led by Staff Nurse Linda Castro, who currently runs two sessions a week and sees an average of 30 patients each session. Her practice will soon be extended to include the phototherapy service. Sister Suzanne Romero leads a leg ulcer clinic, where patients are assessed, treated and then followed up very successfully. The District Nursing Staff continue their excellent service and have also introduced many improvements as a result of their new training programmes in palliative care, adult protection and doplar training. The latter is for assistance in planning treatment for patients with circulatory problems.

Mr Speaker, moves to improve access to primary care are continually evolving. There are now more than 32,000 people registered and issued with health cards. Over 140,000 visits were recorded at the PCC over the last year. Staff at the PCC have recently introduced an appointment reminder service which has resulted in a considerable decrease in the number of cancelled clinics due to non-attendance by patients. In the first two weeks of May alone, out of 751 patients who were reminded of their forthcoming appointments over the phone, 110 admitted that they had forgotten. As a result, 81 potential cancellations were avoided and 29 appointments were released for other patients. An electronic web based and voice mail cancellation service has been introduced and PCC opening hours have been extended from 8.00 a.m. to 6.00 p.m. Calls for advance appointments are also being diverted to the GHA's call centre at

St Bernard's if all lines at the PCC are busy. There has been a marked improvement in access as a result of these measures, but I am still not completely satisfied with the level of access and feel there is still room for improvement. The system will, therefore, be kept under close review and we will continue working towards even better access.

Moving on to secondary care in St Bernard's Hospital. The in-patient care areas introduced many improvements in care and services throughout the year. These included the introduction of a haemofiltration service, which further reduces the need for patients to transfer to an outside ITU; improvement in documentation and team communication within all the units; greater volume of activity and support for the clinic work in the paediatric department; pre-assessment clinics established for dental and ENT services; a DVD library for patient information and health promotion materials; new equipment for monitoring sleep apnea, bilirubin lung function and travel ventilation; continuing professional development in transfer of sick children, allergies, asthma and severe respiratory disease; excellent blood donor campaigns and support systems for new donors. Mr Speaker, there are 1,600 people in Gibraltar who donate blood on a regular basis. I feel that this selfless act which saves lives is taken for granted by many of us in this community. Giving of one's time to donate blood, not a very pleasant experience in itself, is commendable and I take this opportunity to pay tribute to Gibraltar's blood donors, both young and old. The Eye Department has made very significant improvements in access over the past year. In particular, its staff members functioned as an excellent multi-disciplinary team achieving new collaborative arrangements between nurses, the optometrist and the orthoptist, which together with excellent clerical support, has resulted in the elimination of the backlog in the diabetic eye clinic. The setting up of another nurse-led clinic led by Charge Nurse Trevor Galliano, has meant that there are now no waiting times for minor operations. Cataract procedures are underway for glaucoma and for children's eye problems. The Pharmacy Department is forever evolving as new drugs are continuously emerging. It has to respond not only to new drug preparations

approved for existing services, but also new drugs for new services such as chemotherapy, dialysis, ITU and anaesthesia services. The team also has to cope with the changes associated with the computerisation of its entire procurement system. In fact, the pharmacy team will be the first department in the GHA to introduce this system. In nutrition and dietetics, and consistent with the three year plan announced last year, the GHA has recruited an additional dietician. The department increased its activity by 17 per cent and our nutrition team has supported many clinical developments, with 50 per cent increase in intravenous nutrition support and additional patients treated in special feeding systems. The Radiology Department was again extremely busy this year, carrying out over 22,000 examinations on nearly 18,000 patients. A third radiologist is being recruited to help with the additional workload and to allow for the development of the new breast cancer screening programme. A new ultra-sound machine, a new image intensifier and a major upgrade to the CT machine were added in the past two years. The Pathology Department has undergone massive transition in the past two years, with many new pieces of equipment and a results service which is second to none. In a recent media interview, the head of the department, Alex Menez, who has worked in pathology for almost 30 years, had this to say, I quote, "In just this past year we have implemented four initiatives, including more sophisticated allergy testing and improvement to anti-coagulant testing. These initiatives are a part of the GHA's strategic plan to improve and expand services. Timely, accurate laboratory results save lives and are crucial in the diagnosis of disease and patient management. We have a professional and dedicated team of 25 people, with modern equipment and techniques".

I now move on to the GHA's support services. The Records and Appointments Department is sometimes heavily criticised by Opposition Members. It has to be borne in mind that this year the department supported the processing of the appointments, preparation and filing of over 4,500 admissions, 2,800 theatre procedures and over 33,000 clinics at St Bernard's. The department also has overseen the bar coding of 29,000 sets of

patient notes. They have achieved a 95 per cent retrieval rate. The improvement in this support service is considerable and commendable.

St Bernard's Hospital boasts an excellent Technical Services Department which is divided into three sections, clinical engineering, electrical engineering and mechanical engineering. A total of nearly 3,000 requisitions for work were processed by this department in the last year. In addition, an intense programme of maintenance is continuously undertaken to keep the buildings and their equipment functioning optimally. The department is presently commissioning a new pneumatic tube transfer system, which will significantly improve the transfer of samples from the A&E Department, ITU and Operating Theatres to the Pathology Department. As with many other GHA Departments, staff were actively involved in continuing professional development, including fire prevention training, refrigeration gases handling, medical gas pipeline systems, legionella prevention, anaesthesia equipment, ventilator equipment and radiology equipment. These programmes ensure a fully functional first-line response system essential for managing critical plant and equipment breakdown.

The Procurement and Supplies Department is vital to the safe functioning of the health service. Long distances from the supply centres, the prevention of stock outs and high transportation costs are particularly challenging. The members of this department have all completed a level 4 foundation course in purchasing and supplies. Given their experience, this new knowledge and the skills of the manager, they are about to embark on a major change as they implement the pro-active business management system for Government. In the past year the department handled 3,000 internal requisitions and 4,000 purchase requisitions to a value of £4.2 million.

Mr Speaker, nowadays very little is carried out in health care without the use of a computer or a machine that is operated by a computer. Not only has the GHA got over 500 PCs in use daily across five sites, but also much of the clinical communication of



medical reports and images, such as radiology or the laboratory results, are delivered electronically to doctors. This creates an ever-increasing demand on our IT Department. On the clinical side, this department maintains and backs up the computerised ITU monitoring system, the laboratory system, the radiology system, the appointments system, the health card system, the bed management system, the new pharmacy system and the patient entertainment system, to mention but a few. It is worthy to mention that our new prescribing system, developed in-house, has received recognition in a number of health journals across the EU. The Government continue to be fully committed to its investment in health technology and is focused on achieving improvements in care with technology that would be the envy of any modern city in Europe.

The Human Resources Department had an especially busy year. They dealt with a staffing increase of 33 posts from the transfer of St John's Ambulance to the GHA, including three months of negotiation with the Union and the creation of new terms and conditions of the employment of the ambulance staff. They were also involved in the recruitment of staff associated with the three year plan and instrumental in the initiation of the agenda for changed posts.

The Finance Directorate is leading in the introduction of a business administration system throughout the GHA. The product is supplied by Eclipse, one of Microsoft Gold partners. The Ministry of Finance has agreed that the GHA spearhead the process, with a view to introducing the system across all Government Departments and Agencies. The system will enable us to, inter alia, improve financial control by creating alerts at points of origin; improve visibility of spending; map cost to activity; devolve budgets further, for example, to ward department level; improve reporting systems; facilitate reconciliation with Treasury and enhance tracking of stock and inventory. Treasury have recognised the value of the system and have been very cooperative in ensuring that they are able to integrate with us in receiving electronic transactions, with a view to going paperless in the not too distant future.

Mr Speaker, the School of Health Studies continued its role in nurse education and the management of the bursary programme for nursing students. The big event last year was the recruitment of Kingston University as the new provider of nursing services following the withdrawal of Sheffield from the field of nursing education. The School was recently highly commended by the external moderator from Sheffield University.

This past year has been also a very busy one for the Sponsored Patients Department. The staff served 1,036 patients, 636 of which went to the UK and 369 went to Spain. These 1,036 patients made 2,226 trips, 1,351 to the UK and 874 to Spain. I have nothing but praise for this department whose members provide, not only a professional service but very importantly a caring and personal approach to each individual's needs.

Mr Speaker, there have been 52 formal complaints during 2007, 22 less than the previous year. The GHA dealt with over 340,000 patients during 2007, which makes the formal complaint rate 0.015 per cent. All the complaints were subjected to the full rigour of the policy. Six complaints went forward to independent review.

I now turn to the GHA's plans for this new financial year and to give details of how our three year business plan and Government's health manifesto commitments will develop. I am starting with the sponsored patients programme. Last year my predecessor announced a reform of the sponsored patients programme. The first step, which has already been implemented, was to increase the staff support and to significantly increase the allowances, as well as changing the criteria for means testing households. Further detailed reforms will shortly be provided to Government for consideration. Currently, when patients are sponsored to the UK, the sponsored patient has no input in the decision of which of the sponsored patients can stay at Calpe House when they travel to the UK. The extent of the department's involvement is to make a request on the patient's behalf to the Trustees. The Trustees deal with the request and inform the patient if accommodation is

available a few days before they travel. We in the GHA feel that it would be in the interests of the patients and to their benefit, if the Sponsored Patients Department were to have a say in the process, amongst other things, because we feel the department is better placed to assess not only the social and financial need of the patient, but also the needs surrounding their clinical condition. I have already had an initial discussion with the vice chairman of the Trust and am in the process of convening a meeting with all the trustees to discuss the viability of this proposal.

Turning to our diabetes programme. Modernisation of the management of diabetes is on-going within the GHA. The dietician has already been recruited. The recruitment of a diabetes specialist physician has been successful. In fact, he started working yesterday I believe. The GHA plans to proceed immediately with the recruitment of the diabetes nurse specialists for adults and children, to support the St Bernard's based patients. Diabetes services have already been significantly enhanced for the community, with the modernisation of the essential lab testing equipment. Diabetes care will now be supported by a truly multi-disciplinary team of experts in the field. Once we have all our diabetic patients in a treatment protocol, we have an opportunity to be world class in treatment and quality of life for this sector of our community.

Turning to our cancer programme. This year's plan for the cancer programme is to commence the visiting consultants oncology programme. A visiting Consultant Oncologist and Palliative Care Specialist will be recruited this year to enhance the oncology programme here in Gibraltar. Once that programme is fully operational, GHA management will complete the feasibility assessment for the chemotherapy programme. This programme requires very special planning and the commencement date is scheduled for next year. In addition, the GHA is developing the policy options for Government regarding colon cancer screening and prostate cancer screening as outlined in our manifesto.

Turning to the breast-screening programme. The GHA has already established a breast clinic for the management of urgent breast disease. A mammography service has also been provided as part of that programme. In order to implement another Government manifesto commitment, a comprehensive breast-screening programme is planned to start in this financial year. This programme will be more comprehensive than the one in the UK, as it commences screening at an earlier age, that is, at 40. The full scope of the programme has now been determined but its commencement is subject to completion of the IT specification and the recruitment of the staff necessary for the programme. That is, a breast care nurse and a radiologist which we are hopeful to recruit this year. The Bonita Trust has very kindly given a commitment to provide the bulk of the funding for the equipment necessary. I also take this opportunity to thank Isobel Elull-Hammond of Breast Cancer Support Gibraltar and her committee, for their input and help in bringing this programme to fruition. The goal of the programme is to reduce the mortality and morbidity from breast cancer.

Turning to our public health programme and still on the subject of women's health. It gives me great pleasure to announce that Government has taken on board the recommendations of the GHA with regard to the introduction of the human papilloma virus, or HPV vaccine programme. Infection by this sexually transmitted virus is a causative agent for cervical cancer associated in around 99 per cent of cervical cancers in women worldwide. This new vaccine is capable of preventing cervical cancer, a killer disease amongst women. Last year the UK Joint Committee on Vaccination and Immunisation recommended that all 12 and 13 year old girls should be immunised. We in Gibraltar are taking the very bold step of exceeding that recommendation and vaccinating all females aged 12 to 17 inclusive. Yet again, as we are doing with the breast-screening programme, we are out performing the UK strategy and providing even greater protection to the women of Gibraltar.

Dental programme. The dental programme is set to enhance the access for children's services, orthodontic services and

services to the elderly. The programme has already been commenced with the recruitment of an additional dental officer and a second orthodontist. The GHA plans to recruit a dental nurse shortly and we will be able to see the full effect of the programme by the end of the year, with waiting lists expected to diminish drastically as a result.

In mental health, the first reform of the three year plan approved in April 2007 was the introduction of the improvements in the staffing support for the provision of mental health services with more staff employed in psychiatry, psychology, nursing and occupational therapy. The next phases include the construction of the mental health facility and the move and reform of the community mental health team.

The GHA has invested very heavily in infrastructure to support electronic business systems. The goal of the Government and the GHA is to optimise patient care by implementing an accessible, paperless, clinical management system. Following a period of research into the various product offerings, recommendations were made to Government to purchase such a system. I am pleased to say that its purchase and implementation are planned for this financial year.

I am turning now to the nursing plan and the School of Health Studies. Managing supply and demand of newly qualified nurses is a challenge in most countries and Gibraltar is no exception. There are a group of nursing assistants working in the GHA who have the necessary qualities, experience and qualifications to access the three year course delivered by the School of Health Studies and which leads to registered nurse qualification. Historically, however, if such a nursing assistant wished to commence student nurse training, they would have to resign from their salaried permanent and pensionable post and commence on a student bursary. This was obviously not an option due to financial and family commitments, and therefore presented a major stumbling block in these nursing assistants' career progression. I am very pleased to announce that beginning this year, Government will offer nursing assistants

who meet the requirements, the opportunity to train towards becoming registered nurses whilst retaining their salaries and their employment status. The advantage for the GHA is retention of these staff nurses post qualification. Three nursing assistants from the GHA will form part of the cohort of 12 student nurses for the three year programme commencing in September this year.

Turning on to another manifesto commitment, the low vision and mobility training programme. The GHA has committed to the implementation of a low vision clinic within its Eye Department. The recruitment of an additional optometrist is planned to support this initiative. During the past year the GHA contracted a UK mobility officer to carry out an assessment of the registered and non-registered blind people in Gibraltar. The officer has been running clinics for one week each month. The objectives of these clinics were, amongst other things, to assess the level of need for independence training within the visually impaired community; to help the GHA determine the structure and scope of a local low vision service, and to carry out some training in the use of mobility aids, for example, the white cane. Having completed the groundwork, the GHA will this year be contracting its own full time rehabilitation service to meet the needs of visually impaired persons, including training in Braille, long cane and general mobility training.

Building leadership capacity. The GHA is spearheading a number of innovative projects, some of which I referred to earlier in health services, technologies and business wise administration on behalf of the Government. Continuous improvement and modernisation is high on the agenda of the GHA and in line with Government's manifesto. The organisation has been following a strategy of extending our local skills base. As part of the on-going leadership modernisation, which includes succession planning, ten GHA managers have successfully completed a programme in project management. As the GHA continues to develop our people for strategic organisational change, one of my priorities this year is to set a realistic timetable in which to deliver a feasible succession plan

for the GHA. Mr Speaker, with that I conclude my account of the activities within the GHA over the past year and our plans for the new financial year. I cannot, obviously, end without expressing my appreciation to my management team for their support, and indeed, to every single member of staff. In the short six months that I have been in my new post, I can truly say that I have detected a climate of enthusiasm, optimism for the future and good morale amongst staff members. I believe this is particularly evidenced in the contents of the staff's very impressive DVD presentations.

Mr Speaker, the GHA is not perfect, management is not perfect, the staff is not perfect and I as Minister responsible am most certainly far from perfect, but the people who comprise the GHA know that I am willing to travel with them along the road which will lead to even more improvements and advancements on the part of all of us and for the benefit of all of us, because at the end of the day we are all users and, therefore, beneficiaries of our health service. But whilst we continue to aspire to even better services and to work to that aim, let us learn to appreciate and be thankful for what we have, a health service which is the envy of any comparable community of our size. Thank you.

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

I am very pleased and honoured to deliver my first Budget speech as Minister for Family, Youth and Community Affairs. I have now had the opportunity to familiarise myself with the different areas of my fairly extensive but very challenging Ministry, and can only feel proud of what has already been achieved by this Government in developing and providing a better service to the community and to those more vulnerable members of our society. As Minister for Family, Youth and Community Affairs, I am committed to implement all of our manifesto commitments to ensure that we maintain the same huge and successful momentum of social advancement and change, in order to provide a better service and quality of life of our elderly, the youth, to those in need of social assistance and

every member of our community under my remit. If I may, I would like to share on some of the achievements and social measures adopted by this Government with regard to social security, the elderly, social services, the youth and civic affairs.

Turning to social security. Following the Cordoba Agreement and the successful historic settlement of the Spanish pensions issue, this Government were able to unfreeze and, therefore, up-rate social security pensions for the first time in 18 years. As a result, our pensioners received a 65.2 per cent increase as from April 2007. A further increase of 3.9 per cent has been paid as from April this year. As announced by the Chief Minister in his last year's Budget speech, the 65.2 per cent increase in pension has been disregarded for calculating the entitlement to the minimum income guarantee. Already we have seen a commencement for the full computerisation of all the benefits sections of the Department of Social Security. This is a complex and important project which will enable the DSS to move from a labour-intensive, antiquated manual system, which has been practically in use since the 1950s, to a modern IT system, using the latest technology and e-mail and internet facilities. It is envisaged that an automated system for assessing benefit claims, providing pension forecasts, up-rating and paying the actual benefits will greatly improve the quality of the service currently provided to the public, and will enable the DSS to address most of the issues raised by the Ombudsman in his last annual report of 2007. We will also be looking at alternative methods of paying our pensioners to avoid the long queues at the DSS public areas on pay days.

Since the introduction of the earning related contribution scheme in April 2007, casual workers, part-timers and low paid workers are now better off financially as they only have to pay a reduced social insurance contribution not exceeding a minimum of £5 per week. In addition, they are now covered for the full range of social security benefits payable under the scheme, including old age pension, irrespective of the rate of contribution paid or the number of hours worked in any week. For example, a part-timer on a low income who previously worked for less than 15 hours,

can now aspire to receive a pension on reaching pensionable age. Whereas before, he or she was only covered in case they suffered an accident at work. I am pleased that this progressive Government has managed to introduce a fairer social insurance contribution system which will provide more social protection to a large spectrum of employees, particularly those on low pay or those who for different reasons are unable to work in full-time employment, or simply have to rely on casual work. I am particularly pleased of this measure as it assists people at the lower spectrum of the pay income group and provides much social advancement to those in need. This is in line with the GSD philosophy of redistribution of social justice for those in need of greater protection in society and in need of greater protection in the labour market.

Last year we have also seen improvement, well at least, we certainly have far more social conscience than Opposition Members when they were here in Government. Last year, we have also seen improvements in the child welfare grant payments. Parents in receipt of this benefit are now financially better off following the increase of the grant for each eligible child, from £30 to £40 per month. Furthermore, over 100 additional families have benefitted from the increase of the combined parental earnings limit for entitlement to this benefit. This was increased from £35,000 to £45,000 per annum. There are now 1,811 families receiving this benefit. Again, another GSD social policy targeted to help young families when their needs are greatest.

Mr Speaker, this Government recently introduced legislative measures to allow divorced persons to claim an old age pension based on their former spouse's contribution during the period of marriage. Also, to enable married women who are paying or have paid the reduced social insurance contribution, to make retrospective payments on the difference between the reduced contribution and the full standard contribution. I am pleased to inform this House that to date 41 persons aged 60 and over have already benefitted from either or both of these initiatives and are now receiving enhanced pensions. There are, of

course, many others who will benefit in the future as and when they reach pensionable age. In addition, there are 114 women, some divorced, who have taken the opportunity to pay back the full rate contributions in order to receive a pension in their own right at age 60. There are also a considerable number of women, about 130, who have shown an interest but are still undecided. The time limit in which to apply does not expire until 31<sup>st</sup> July 2008. These are two important GSD commitments to give peace of mind to divorced persons, mainly women, who may have not worked whilst they were caring for the children of the marriage and, therefore, had lost the right to a share of their working spouse's old age pension, and to give a chance to married women reduced rate contributors to pay full back contributions to get an old age pension in their own right. The feedback that the DSS is getting from the public has been generally very positive. Once again, it gives me great satisfaction to observe how the GSD Government continues to enhance the opportunities of our people to have a better quality of life when they reach their retirement age. A truly caring Government seeking to make everyone prosper from the good handling of our economic success.

It also gives me great pleasure to announce that the first ever official guide for the disabled has now been published and is now available to the public. This handbook which has been produced in collaboration with other service providers, gives general information on the different benefits and services available to disabled persons in Gibraltar. I trust this guide will be of practical use to all disabled persons and their relatives and friends in the community. It shows our continued commitment to work closely with representative groups of disabled persons in Gibraltar. My hope clearly is that the guide will provide a holistic picture of the benefits and services available throughout Government Departments, Authorities, Agencies and NGOs to enhance the quality of life of anyone with a physical or learning disability. It is also my intention that service users will also provide suggestions for future editions of the guide, thereby helping to enhance this product. Therefore, I would like to take

the opportunity to thank everyone who has made this first guide a reality.

Mr Speaker, the GSD achievements in social security so far are 61.1 per cent increase in old age pensions; introduction of a minimum income guarantee to ensure minimum income for elderly persons; divorced women given pro-rata old age pension rights; married women rate contributors allowed to pay back full contributions to old age pensions in their own right; 800 persons have taken advantage of the opportunity to complete arrears of contribution records; social insurance contributions abolished for over 60s, for trainees and vocational cadets or students, and during maternity leave; social insurance contribution system reformed to reduce payments and assist casual, part-time and low paid workers; substantial increase in previously 1988 frozen benefits; maternity allowance has been increased by 50 per cent since the introduction, this has also increased from 14 to 18 weeks; maternity grant increased by 1000 per cent; death grant increased by 400 per cent; social assistance payments up 40 per cent; unemployment benefit up 45 per cent; industrial injuries benefit up 50 per cent; disability allowance up 160 per cent; rates in the threshold of benefit level of child welfare grant.

Moving on to the elderly, here too our record must surely rank as one of the best in the western world. Thankfully, our elderly folk are living longer and this means that our policy of care towards them needs to be continuously expanded in order to keep pace of their naturally growing demands. Our current focus within the Elderly Care Agency and myself is in providing a comprehensive report for the purpose of expanding our domiciliary and nursing care. As Members of the House will be aware, under the GSD Government we took over the financial and managerial responsibility of Mount Alvernia and the Jewish Home. As a result of this, a massive financial investment by the Government was made available, thereby very successfully transforming for the better the facilities and expanding the bed capacity of Mount Alvernia from 62 to 135.

Despite our overall success due to a massive spending on the elderly, amounting to an increase of 860 per cent since 1996, we do realise that there is more to do. In this context we are analysing various options within the old John Mackintosh floor at the old St Bernard's Hospital, as a further facility for the elderly. I will inform the House that I am at an early stage of gathering the various options available and once this is done I will then submit for Government consideration. We would like to be in a position of ending this process within this financial year in order to hopefully commence refurbishment works in the next one. Whatever option the Government decide to take, this will mean another considerable investment, both in capital costs and recurring expenditure thereafter.

Another area in which we will want to carry out refurbishment works in this financial year, would be on the external of Mount Alvernia building in order to further improve the present facility. In addition, we will be remodernising the balconies in order to give it a fresh outlook and make good some spalling concrete that some balconies now have. This no doubt will greatly enhance the residents' ability to seek out and enjoy the magnificent views of the Bay and the Strait of Gibraltar.

Last Tuesday 27<sup>th</sup> May, I had the pleasure to lay on the Table of the House the accounts for the Elderly Care Agency and the annual reports. This will give hon Members an opportunity to have a flair for the issues that have taken place during those respective years. I would like, though, to take the opportunity to give my thanks firstly to Priscilla Sacramento for her invaluable contribution of training the staff in the use of the snoezlen room, the Friends of Mount Alvernia for their continued support and the management and the staff of the Elderly Care Agency. As part of our overall policy for the elderly we are at an advanced stage of completing our second home for the elderly. The first building being Bishop Canilla House, which has 86 flats has proved to be hugely popular with our senior citizens. The new one, to be named Albert Risso House, will provide a further 140 flats. I have no doubt that this new facility will be just as popular as the previous one. Not only because the fantastic atmosphere of

camaraderie that exists between them, but also because the new building incorporates extra features from that of Bishop Canilla, inclusive of the purpose of a social club.

So, our achievements so far for the elderly are old age pensions increased by 69.1 per cent; tax on pension income abolished; tax on other income up to £10,000 abolished; tax on savings income and death duty abolished; creation of a minimum income guarantee; minimum income guarantee paid even if family living with recipient; five opportunities to complete pension contribution record, over 700 pensioners held; issue of higher interest tax free pensioners bond; we have abolished driving licence renewal fee; driver's licence medical test fee; passport renewal fee; TV licence fee; we have provided for a free bus service for the over 70s; no need to buy a pension annuity while pension capital may be taken tax free; no social security contribution payable over 60; 86 flats at Bishop Canilla House; 140 more new flats for the elderly at Waterport Terraces; Mount Alvernia expanded from 62 to 135 beds; 860 per cent increase in spending on elderly care services since 1996; new swimming pool at Westside; four day centres funded by Government; meals and companionship provided; the establishment of a dedicated Elderly Care Agency; consultant geriatrician and therapist; domiciliary care services; structured programme on personal care at home; respite facilities; physical activities programme for elderly, and elimination of waiting lists for cataract and knee operations.

Moving on to Social Services, it gives me great pleasure to provide an overlook of the work and aims for the Social Services Agency, and in so doing to describe both the work that has been undertaken in the last 12 months, as well as for the plans we have for the next 12. Our aim is to provide the highest possible standard of service and care within our current service remit and the resources that are available.

The Social Services Agency has come a long way in a short period of time. It was established by the 2002 Act and now provides a wide range of services targeted at the needy and less

well-off members of our society. These include adult social work services; day centre services for the elderly; day centre services for adults with learning disabilities; adult residential and respite services for adults with learning disability; the family court welfare service; the probation service; the community service order programme; children's social work services; residential services for looked after children; a counselling psychology service; 24 hour cover 7 days a week is also provided by the Agency through its out of hours social work team. During the last 12 months, a number of initiatives have been put in place to enhance these services. These include the redevelopment of our local and international child adoption service, the reintroduction of a local fostering service which is due to be re-launched in the second week in June 2008, in fact, next week. We have led on the development of a series of inter-Agency protocols to ensure that our child protection arrangements are seamless and safe. We have designed and developed a local training programme on child protection for professionals across all our public services who come into regular contact with children. Some 600 staff will be trained over the next 18 months. The first training event took place on 8<sup>th</sup> May. A new day centre programme has been introduced at St Bernadette's Occupational Therapy Centre, aimed at providing our service users with a wider range of activities, more closely tailored to meet their individual needs. We have introduced new inter-Agency protocols for the protection of vulnerable adults and have run inter-Agency training sessions on this issue. We are training a new management structure to better meet the needs of our children and adult residential services. We have introduced a new staff appraisal process entitled "the personal development planning process", aimed at ensuring that staff receive the correct in-service training and education to ensure that they deliver our services to the highest possible standards. We are in the process of providing all of our service users to have individual care plans, which is designed to meet their personal needs. We have had a number of challenging and difficult situations to manage involving individual children, which have represented a significant drain on our resources but which have been successfully resolved. We have concentrated on

improving our day to day working relationship with other Agencies, for example, the RGP, the GHA and the Education Department. Our therapeutic counselling team, who already have an excellent track record of timely and effective therapeutic intervention, have continued to provide a consistently high standard of support to children and families in need. Our day centres for the elderly continue to thrive and last summer we organised a very successful verbena at the Police Club and we held an excellent Christmas party for all our service users at the Varyl Begg Social Club.

I will now look forward to the important implementations of key milestones for the coming year, which include a major focus on staff training and development. We are introducing a new annual internal staff training programme and the first prospectus for 2008/2009 will be published later this month and will include a new basic standard of care programme for all carers, a level 2 health and social care National Vocational Training programme for 17 care staff, an internal management development programme for first line and middle managers in the Agency, the development of a range of services to help achieve our aim of reducing the number of children in residential care. These will include rebooting and developing our fostering and adoption services, providing increased levels of care and support to children and families at home, as opposed to automatically taking children into care. The development of an effective respite and assessment facility for children who are in care or may need to come into care; re-organising our residential care arrangements into more logical and homogenous groupings; re-organising our staffing arrangements for children residential services, so that staff are working wherever possible with their preferred client groups; for example, teenagers, sibling groups or younger children; increased levels of social worker support for families and children at risk. We will introduce sickness absence in childrens residential services from its current average of 10 per cent. We will continue to work with the Ministry for Justice on the best future organisation of our codes and probation services. We will continue to increase the level of involvement that our service users have in their own care and

the support we provide for them, by talking to them and their parents and carers. We will aim to identify and establish external benchmarking arrangements with an appropriate overseas service provider, similar to ourselves, so that we can on a regular basis monitor the development of our services, identify where we need to improve and demonstrate the standards our services are achieving. We will develop and publicise clear descriptions of our services and the criteria for assessing our services. Also, we have a regularly updated multi-disciplinary placement or care plan. We hope to be able to expand our respite and sitter services at Dr Giraldi to better meet the high levels of demand of this service. Of course, this brief description of some of our plans can only give Members a flavour of the way we will be working to improve the quality of our services during the next 12 months.

One of the most important areas under review at the moment is in relation to the Childrens Act. Last year my Honourable and Learned friend, the Minister for Justice, the Hon Danny Feetham and myself announced that we had set up a family law working group in order to work with interested stakeholders and put forward proposals for law reform, which were intended to help those undergoing parental divorce and separation to resolve disputes, so that children's needs are better met. As well as including four lawyers who habitually practice in this area of family law and experienced social workers from the Social Services Agency including, inter alia, representatives from Childline, the Women's Association, Women in Need, the Parental Support Group and the Citizens Advice Bureau. Despite the fact that substantial consultation has already taken place in the context of the working group, we will soon be publishing a white paper with a draft Childrens Act, upon which the community generally can provide its views on that draft. The Childrens Act will not only deal with children in the context of divorce and parental separation, but will afford children protection in every context. Measured by any yardstick, we believe that this piece of legislation will be a most comprehensive legislative measure dealing with the protection of children that this House has ever been asked to vote upon.



So, when we look at the progress so far, we can see the establishment of a unified Social Services Agency to assume responsibility for delivering and coordinating all aspects of social services, increase in annual recurring expenditure from £500,000 in 1996 to a forecast outturn in 2007/2008 of £4,828,000. That is a staggering 96 per cent increase. Increase in staff from 29 in 1996 to 175 in 2007/2008. Number of social workers increased from 7 in 1996 to 19. Establishment of a statutory fostering service for children and young persons. Establishment of a counselling psychology service for children. Closing institutionalised childrens home, like Bishop Healey, and replacing with small group homes in the community for children in care. The setting up of Government social work teams to help courts with children's issues in matrimonial disputes. Introduction of legislation to combat underage drinking and smoking, something, I may add, which is again under review and in which my Hon Friend will be addressing later on. Counselling psychology services for adults. Premises and financial resources for women's hostel for victims of domestic violence. Dr Giraldi Home divided into separate flats for more homeliness and privacy. Huge increases in staffing levels at Dr Giraldi Home. Establishment of a structured respite service, steadily providing increased hours over the years. The provision of a purpose-designed swimming pool for the disabled. 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 and an increase of 160 per cent in the disability allowance which had remained frozen between 1988 to 1996.

Mr Speaker, when one objectively considers the enormous record of achievement by this caring Government for the benefit of our most vulnerable members of our society, one would come to the conclusion that this is a record with no parallel, neither in the history of Gibraltar, nor for that matter in the history of Western Europe. The second thing to mention is that the

majority of these improvements happened under the watch of my predecessor, the Hon Yvette Del Agua, and it is only right and proper to acknowledge her enormous, positive contribution in improving the conditions of our most vulnerable members of our society and for the hard work done.

Over the last six months, in particular, the GSLP and the GSLP friendly media outlets have conducted a relentless and scurrilous assault on my honourable friend, the Hon Yvette Del Agua, with events that happened some three years ago in Dr Giraldi Home. Throughout all of this time both the Government and the Social Services Agency have kept themselves restrained from what has been described as a political circus by the GSLP in order to tarnish the good name of my honourable friend. However, I now wish to make the following statement in reply to Mrs Hernandez's interview in one of the local press and other recent statements elsewhere.

For the sake of clarity, may I explain that Mrs Hernandez was the previous manager at the Dr Giraldi Home. (1) Her comments constitute a deliberate attempt to mislead the public as to the reasons for her dismissal from the post of manager at Dr Giraldi Home in 2006, and as to the circumstances surrounding this dismissal. (2) Mrs Hernandez was dismissed for her inability to fulfil the managerial requirements of her post, and solely for that reason, she was not dismissed for blowing any whistle, nor am I aware of anyone ever being dismissed for blowing any whistle. (3) All the complaints that were made before or during 2006 regarding alleged abuses at Dr Giraldi Home were properly investigated and appropriate action was taken. It is a complete fabrication that the RGP investigation into one of the complaints was, quote, "abruptly halted as a result of orders from Government". The RGP halted their own investigation of a case reported to them by the Social Services Agency itself due to lack of evidence. (4) Mr Duncan Jones, previous team leader of the Social Services Agency, did not resign his post because he had concerns of the same nature as those being alleged by Mrs Hernandez. That is, sexual and physical abuse and drug taking. The reason given by Morag

Jack, previous manager to Mrs Hernandez of the Dr Giraldi Home, for resigning was for personal reasons. (5) The Disability Society conducted a march to No. 6 Convent Place to complain about what they perceived as inadequate provision of respite services, which incidentally, had to be cancelled for nearly a year due to Mrs Hernandez's mis-management. The march was not related to the allegations being made by Mrs Hernandez. (6) Mrs Hernandez contradicts herself in public statements relating to her engagement. She informed the Tribunal that because the Dr Giraldi Home, its working practices and staff had changed for the better, and they were now professional, she would have no difficulty working with the Agency once more. Yet, in her GBC interview of 10<sup>th</sup> April, she stated and I quote, "but I feel that there are still some people in there who are at risk, who have nobody to protect them, whose family members are going through hell and back and Government appears not to want to do anything". This shows the irrefutable contradiction by Mrs Hernandez in which in one forum, that is the Tribunal, she makes one statement and in the press she makes the complete opposite, which has the irresponsibility of causing unnecessary concern on service users and their families. The truth is that neither parents nor the Disability Society.....

#### **HON G H LICUDI:**

On a Point of Order. There is a Point of Order to be made in relation to this case and the quite simply outrageous outburst by the Minister this morning. This is a case, the Minister is referring to, which has been on-going in the Industrial Tribunal for a significant period of time. It has now ended in the Industrial Tribunal and it is now on appeal, as I understand it. The Social Services Agency and the Government, in fact, had the opportunity of putting whatever arguments they wanted to put, whatever claims they wanted to put, whatever cross-examination they wanted to carry out of Mrs Hernandez and put these matters to her. They had that opportunity in the Industrial Tribunal. They have chosen not to do so. More so, the

Government in rejecting the judgement, the ruling of the Chairman, has essentially said this is not a matter for the Government it is a matter for the Agency. It is therefore extraordinary that the Minister should get up in this House and carry out an assault, an attack, an unjustified assault and attack on a personal basis against a member of our community who is not here to defend herself, and who has no recourse and was xxxxxx in an industrial tribunal and has no recourse whatsoever in respect of answering the shameful allegations that are being made today. It is a Point of Order because it is out of order for the Minister to rely on that when they had the opportunity outside this Parliament, outside this House, to make all those points and to challenge and they chose not to do so. They then eventually capitulated, not give in because they were afraid of being exposed further, as they have been exposed over the last two years, and having done so it is totally inappropriate and quite shameful for the Minister to make these remarks today.

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

Mr Speaker, we are a long way away, thank goodness, from Mr Stephen Linares being in presiding officer capacity in this House. Look, what the Opposition Members cannot do is politicise an industrial tribunal process, as they have done, and then complain that the Government defend themselves. It was only yesterday that the Leader of the Opposition was preaching to me, pre-empting my reply to his Budget speech which I had not yet made, lecturing us about how no one should ever suppress any issue of public importance from being discussed in this Chamber, and that he had the right to act and now when the Government exercises the right that the Leader of the Opposition apparently thinks is inviolable, it is unacceptable to them but only because it is politically uncomfortable. Secondly, the Hon Mr Licudi, who presumably, with that passionate intervention, will have recovered some of the ground that he has lost with his leader for his article in the Gibraltar Magazine. The hon Member is misleading this House when he says that the Government has chosen not to respond to these issues after the

tribunal and outside of the tribunal. We have done so in public statements. No I will not give way.

**MR SPEAKER:**

Order, Order. The Chief Minister is on his feet, he must be heard. I will hear Mr Licudi as soon as the Chief Minister gives way or sits down.

**HON G H LICUDI:**

There is an allegation of misleading the House.....

**HON CHIEF MINISTER:**

Well, let me finish making it and then he will know what he has to respond to.

**MR SPEAKER:**

Let us hear what is being said.

**HON CHIEF MINISTER:**

He has not yet heard the full charge, there is more to respond to than he thinks yet. The hon Member is misleading this House when he says that the Government have chosen to remain silent on these issues having had the opportunity to cross-examine. The Government have not remained silent. The reason why the Government have not remained silent after the tribunal, is because the Opposition have chosen to continue to wage a party political campaign on the basis of the Industrial Tribunal. That is the shame of this House. Finally, the hon Member asked, the hon Member on his feet, Mr Licudi, the Leader of the

Opposition murmuring under his breath from a sedentary position, what opportunity does Mrs Hernandez have to rebut these allegations that are being made against her? Well, the answer is this, the precise same opportunity that Mr Nicholas Russo has to rebut the allegations made against him by Mr Linares when he accused him yesterday of exercising.....

**MR SPEAKER:**

Order, Order.

**HON S E LINARES:**

Mr Speaker, I never even mentioned that name. So if I did not mention that name I would like him to retract what he has just said.

**MR SPEAKER:**

His name was not mentioned.

**HON CHIEF MINISTER:**

The hon Member is as disingenuous as he is politically dishonest. One does not need to mention the name, the statement "the leader of Gibraltar's business community will not criticise the Government because he knows".....

**HON S E LINARES:**

There are three leaders of the business community in Gibraltar, three.

**HON CHIEF MINISTER:**

“The leader of the business community in Gibraltar will not criticise the Government because we all know where his business interests lie”, in the light of recent scurrilous statements by the New People and others can only point at one man. He is as dishonest as he is disingenuous in his political arguments. Mr Russo has the same opportunity, I do not know whether it is enough or insufficient but exactly the same opportunity as Mrs Hernandez. That is the answer to the hon Member's Point of Order.

**HON G H LICUDI:**

The Chief Minister has got up in quite irate form this morning. Clearly we struck a raw nerve by challenging the Government on this issue because of their appalling misbehaviour over the last two years that this matter has gone on, and more. The Chief Minister has said that I have misled the House because I have said that the Government have chosen to stay silent. That is not what I said at all. What I said to the Chief Minister was that the Government have chosen not to contest proceedings which were afoot in the Industrial Tribunal, that they had the opportunity of contesting those proceedings.....

**HON CHIEF MINISTER:**

That is not what he said.

**HON G H LICUDI:**

That is what I said.

**MR SPEAKER:**

There was use of the word “cross-examination”.

**HON G H LICUDI:**

Yes, in the Tribunal.

**HON CHIEF MINISTER:**

He is saying that now.

**HON G H LICUDI:**

No, no, no. I mentioned specifically that the Chief Minister has intervened, made an attack, that the Government had the opportunity of answering all these allegations, all these charges and cross-examining, and that can only take place in an industrial tribunal setting. I did not say that the Government had chosen to stay silent.

**HON CHIEF MINISTER:**

The hon Member is answering statements made in the press not in the Tribunal. The Minister is answering statements made by Mr Bossano's client on GBC television not in the Tribunal.

**HON G H LICUDI:**

It seems that the Chief Minister has completely missed the point.

**HON J J BOSSANO:**

Perhaps Mr Speaker can clarify something for me, given that I am not entirely sure what the legal position is or what the Rules of the House say. If somebody is dismissed, allegedly for failure to meet the standards, and that goes to a tribunal and when the time comes for the employer to satisfy the tribunal that that was the reason for the dismissal, the employer says they cannot produce the evidence and they concede that it is an unfair dismissal, how can then a Minister tell this House that the reason was the one that was alleged but never proven? This is what he has said, she was dismissed for this reason. Well look, they do not have any evidence of that. They actually said in the Tribunal, "we have no evidence so we are not proceeding".

**HON CHIEF MINISTER:**

No, that is not what they said. Nobody in this House is here to give the hon Member legal advice. I thought he was the giver of legal advice given that he represents people in industrial tribunals.

**HON J J BOSSANO:**

As a trade unionist which he has forgotten I was.

**HON CHIEF MINISTER:**

The trade unions have full-time officials to do that without politicising people's legitimate claims against their employers. But the answer to the question is that the hon Member has misstated the Government's position. The Government's position is not that they did not think that Mrs Hernandez had been dismissed for the reason that was alleged, but that they were unable to discharge the burden of proof because the witness would not come back to Gibraltar to give evidence.

Now, the Government's position as to the reason why the Agency dismissed Mrs Hernandez, are the ones that they have always been which are the real ones. The fact that one cannot discharge a legal burden means that one loses in the tribunal, but it does not mean that the reasons are different to the ones that were originally the case. One thing has nothing to do with the other. He has asked for my advice, now he has it.

**MR SPEAKER:**

I think we have now deviated quite far into a specific case. I think we should come back to the Point of Order raised. In my mind the position is relatively clear. Maybe a simplistic way of looking at it, in a free society every individual, every entity has a right to pursue his or her interests in one of many manners. One of them is through the courts and how the parties conduct their affairs in the courts is a matter entirely for themselves, as they may be advised or not advised by their counsel or litigation friends. Parties take the consequences of those proceedings as they conduct them. That is a matter of the courts and the right of the individual for recourse to the courts. Individuals have the right also to conduct their affairs through the media, to issue press releases, write letters to the media and express their views over the media. Again, they accept the consequences of their acts or omissions in the media, there are laws protecting everyone in terms of the law of defamation. Then there is the right and the duty of the Government to respond to allegations made against the Government. Frankly, I cannot think of a better place for the Government to respond to and perform and discharge its obligations than in this Parliament. Therefore, in my view, it is quite proper for the Minister to make statements in response to allegations which have been made against the Government by Mrs Hernandez in the media.

**HON J J BOSSANO:**

That is not the issue. The issue that I am asking is, if somebody has been found in a court to be unfairly dismissed, the Minister is actually saying here in public for the whole of Gibraltar to hear that she was not unfairly dismissed because the reason for her dismissal was the one that they could not prove, because they were not able to satisfy the burden of proof. Well, she has got no recourse apparently against that. If he said that outside she might be able to take him to court. I suggest he repeats it outside.

**MR SPEAKER:**

Order, Order. First of all that is what Parliamentary privilege is about. The Minister is entitled to stand up in Parliament and say, notwithstanding whatever anyone else says anywhere, including a high court judge, this is what I believe. He is entitled to say that. I should advise the hon Member one ought not to threaten other Members with contempt or slander proceedings in this Parliament.

**HON F R PICARDO:**

There is extant the question of whether an allegation having been made that somebody has misled the House is properly made as the hon Member made it before. Mr Speaker, I think, has the same edition as I do, page 441 footnote 2 of Erskine May requires the hon Member if he is ever again going to make an allegation that somebody has misled the House, to note that the only proper way to do so is by motion.

**MR SPEAKER:**

By motion. This is something we discussed, I think, two Budget speeches ago.

**HON CHIEF MINISTER:**

The allegation against the Hon Mr Licudi of misleading the House was in the context, now clarified in my mind, of the fact that the words he articulated to make the points that he had in his mind, are not the words that he used the first time. He used them the second time but he did not on the first occasion make it clear that he was limiting the criticism of the Government's failure to take previous opportunities to the proceedings. No, he did not say that. He made that clear when he complained about the allegation of misleading the House. Then in turn, I clarified that the Minister is not speaking to things to do with the tribunal, he is speaking to statements made in public after and beyond the tribunal, on GBC television. That is the context of the accusation and if the matter is now clarified and the hon Member declares that what he said the second time is what is he meant the first time, I have no difficulty whatsoever in accepting that and therefore he was not misleading the House, but it is not the message that he transmitted across the floor of the House by the exact words that he chose, which were simply..... I know he has not got his exact words in front of him but Hansard will demonstrate that he used language which suggested that, in general, the Government had chosen to remain silent. He did not say that the Government had withdrawn the case, or withdrawn the evidence, or had chosen not to contest the charge, or had collapsed in the tribunal, he could have used any of those phrases accurately. He did not. He simply said that the Government had chosen to remain silent, implying until now, and that is not the case. But if it is not what he meant, then of course, I acknowledge that he was not intentionally misleading the House.

**HON G H LICUDI:**

I would be grateful for an opportunity to clarify the point. It is not a question of what I meant, it is a question of what I said. It may be that the Chief Minister got the wrong impression or took it a different way but I clearly recall having referred to the

proceedings in the Industrial Tribunal, having referred to cross-examination, having referred to the opportunity that the Government had of contesting those proceedings in that forum. That was the thrust of my argument in my first intervention. I clearly mentioned the Industrial Tribunal in my first intervention but I do acknowledge that if the Chief Minister says that if that is what I said or what I meant to say, then I clearly was not misleading the House.

**MR SPEAKER:**

I think there is a general acceptance that misleading does not really come into it. Shall we now proceed with the Hon Jaime Netto?

**HON J J NETTO:**

Thank you Mr Speaker, I was in the middle of my point six when I left it. If I can resume where I left it. The truth is that neither parents or the Disability Society have made, or are concerned, on any abuse to residents of the home. What Mrs Hernandez should do is to make clear and specific allegations to the notice of the Royal Gibraltar Police if she feels that service users are at risk from staff, or stop causing unnecessary stress on the service users, their families, or the staff working there, for extraneous reasons of a personal or political nature. (7) The vast majority of the report from members of staff obtained by Mrs Hernandez made absolutely no reference to any abuse of any kind. They centre on individual complaints against the then Deputy Manager of the Home, for allegedly discriminating against members of staff in relation to rosters, promotions et cetera. (8) After the few allegations of abuse that are made in a few of the reports, some were properly investigated at the time and appropriate action taken, and others were subjective, anecdotal and not evidence-based. They catalogue impressions and opinions on those making the allegations, often based on hearsay, of dated and third party information. (9) The process

of the exercise undertaken by Mrs Hernandez to collect these reports from members of staff were procedurally non-compliant. She took it upon herself to call the individual staff members at home and ask them to come in at times, over the weekend, when she knew the Deputy Manager would not be on duty. It was inappropriate, could be construed as covert and victimising the Deputy Manager and the information was potentially libellous. The disregard of the process as outlined in the then disciplinary proceedings entitled "Employment Directions 2002" or "General Orders" raised serious doubts over Mrs Hernandez's competence to investigate concerns in practice in a fair, transparent and procedurally correct manner. (10) Nevertheless, a social work team was instructed by management to undertake a thorough assessment in all the flats at Dr Giraldi. The Chief Executive personally attended Dr Giraldi Home and then addressed all staff and service users. Social workers reported their findings and action plans were implemented. (11) Since the new current Manager was appointed, he has drafted a comprehensive code of practices, as a result of which there has been great improvements in all areas of practice within the Dr Giraldi Home, as acknowledged by Mrs Hernandez herself.

Moving on, one of the new policy initiatives that I want to announce in my Budget speech, is in relation to how I see the future role of the Social Services Agency, the Elderly Care Agency and Bruce's Farm. I have no doubt, and the evidence clearly speaks for itself, that all of these three institutions have played an enormously important role in both providing essential services to the community, and in some cases, in actually saving the lives of many individuals. That said, there is an argument that we ought to try and move away from the classification or the stigmatising of people in accordance with being referred as "elderly", "social" or "addicted". I believe that notwithstanding the huge benefit that the Social Services Agency, Elderly Care Agency and the New Hope Trust have made to this community, that we need to move beyond the current set-up and structures available to one which is more cohesive and reflects better the times we live in. Therefore, I

will start the process in this new financial year to have a new agency that will fuse and take over the functions, management and resources available to the three current organisations into one. A new agency that will move away from the classification of individuals to one that will not stigmatise people because of their individual circumstances. I would also like to make it clear that this is not an exercise to try and cut back on the levels of employment, or in the level of expenditure, in any of the three current organisations. As I have said, to better use the resources available in a new fused agency, and one that does not stigmatise service users depending on their personal situation. So I will provide this assurance to the Unions and to staff members.

Clearly there will be much work to do, not least in preparing a new Bill setting out the terms of the new agency, but also in integrating all the various functions across the three current institutions. I would also like, though, to take the opportunity to pay tribute to all past and present members of the New Hope Trust and its employees, for the hard work and dedication to serve the interests of important members of our society when they truly needed the services of Bruce's Farm. In particular, our good friend the Hon Hubert Corby for having given so much of his time and effort to promote the well being of individuals when they truly needed the support of others in coming out of their affliction. Hubert has been a shining example of how much an individual can do in voluntary work, that truly makes a difference to the livelihood of other people, so my sincere thanks to him and everyone else.

Turning now to youth matters, this past year the Youth Service has continued to deliver a varied programme for young people to take part in. I will remind the House that youth work is about assisting in the personal and social development of young people. It is about creating opportunities that allow young people to learn about themselves and about important contemporary issues, both in local and global perspectives. Youth work aims to empower young people, its aim to help them develop the skills and tools to make the right decisions in life

and to become active citizens who make positive contributions to their community. The Youth Service strongly adheres to these key values and principles and continues to offer a varied programme of projects and activities that aim to be educational, participative and fun. The Youth Service also seeks to become more accessible to other agencies and professionals who concern themselves with these same principles. Work with schools has increased this past year and new initiatives are due to commence at the College for the next academic year. The role of the youth worker as educators gathers credibility as the contributions in a variety of settings reaches young people, many of who are disaffected from their peers as well as mainstream provision. Youth workers are constantly in demand to complement individual support programmes for young people, working alongside teachers, social workers and families. The Youth Service also plays an important role in addressing some of the issues that can cause local concern, such as drugs and alcohol abuse and anti-social behaviour. Their approaches to these are sensitive and subtle, demand one to one work with young people who are particularly at risk, and often fall prey to these and other temptations.

On a positive note, the current year commenced with an active involvement in the Three King's Cavalcade. Montagu Bastion continues to play a central role by providing assistance to a variety of groups and individuals that contribute to this popular annual event. They also promote the importance of community participation, highlighting the popularity that the Cavalcade enjoys in the local social calendar. The winter months also generate a lot of interest in skiing and snow and the consequent trips to Sierra Nevada. Often in combination with these trips, youth clubs develop projects that focus on a variety of issues that young people identify as important to them and needing information and reassurances about. Topics such as health, drugs and alcohol, relationships, family life and others are all areas about which there is never enough knowledge, never enough questions asked. Plater Youth Club run a scheme whereby service users commit themselves to a programme covering these topics. The young people gather information,



attending workshops at times delivered by guest speakers after which they discuss the issues and share their views. Residential weekends often provide the space and setting for young people to continue to share and discuss the issues highlighted in these projects in the company of friends and with trusted adult support. Other locations offering different facilities are used, depending on the preferences expressed by the young people or the nature of the project. Dolphins Youth Club held their residential at Selwo World, focussing on conservation and wildlife. This topic had already formed part of the World Clean Up Day, during which the importance of the environment and natural resources, already being covered during residential activities, are organised and encourages individual commitment and a sense of responsibility, having already contributed to meet the expenses of fund raising and the outing and paying a contribution themselves. Young people are encouraged and expected to respect previously agreed rules and behaviour. Residentials are not holidays or free rides. These and many other tools that youth workers utilise in an effort to encourage and entice young people to take part in relevant learning opportunities, whilst having fun and participating fully in them. Whether it is about protecting the environment, being aware of world poverty, learning about healthy lifestyles or creating wearable arts, youth workers use trips and residentials as one of their many ways to explore issues in comfortable and preferred locations. Most youth service programmes and events take place within the confines of the local youth clubs. Youth workers dedicate time and resources to encourage participation in a wide variety of activities, including cooking, plant keeping, neighbourhood renewals, art and fashion, drama and performance, sports and games, as well as the all important discussion and debate that regularly happens in all clubs. The active participation of young people in the development and delivery of these activities is an important tenet of the work the Youth Service carries out. It can sometimes lead to a long and challenging process for the young people that do not always end successfully. However, youth workers attach the required importance to contribution and effort and no young person is

ever left feeling unrecognised or unrewarded for their efforts. Youth work is about the journey and not the destination.

Mr Speaker, one policy initiative that I will announce is that this year and for the first time in 25 years, the Youth Service will be undergoing a review. The review team is composed of three experienced youth work inspectors from the UK, who are often trained and are contracted regularly for their expertise, in assessing youth work delivery staff and policy development. The review will be looking at current provision and youth work delivery, set against the existing terms of reference for the Gibraltar Youth Service. The review team will be in Gibraltar in early June. In fact, yesterday morning I had my first encounter with the team in order to look at youth work delivery in current projects, talk to the youth work staff, young people and other stakeholders. The recommendations will focus on possible current and future development, using local resources and expectations to promote policy development, implementation of objectives and future training requirements. The review is a widely welcomed initiative by the Youth Service staff, all of whom have obtained a degree qualification in the United Kingdom, who have been trained locally as part-time or voluntary youth workers. The Youth Service will continue to support the Cheshire Home project in partnership with local support groups and other organisations. Likewise, the support towards the Duke of Edinburgh Award as a valuable youth work provision continues. Young people undertaking the respective programmes use the premises at Montagu Bastion regularly. The Award has an enviable group of volunteer leaders, who dedicate valuable free time and preparation and qualifying weekend camps, as well as on-going weekly meetings and workshops. The Guides and Scouts Associations provide regularly, including extra events to commemorate important milestones reached in the history of both movements. They provide the bulk of youth work provision for younger children in Gibraltar. Their commitment to on-going development is also admirable and Government will continue to assist them with funding and material help.

This year the Youth Service will also be promoting youth exchanges in response to the initiatives and requests presented by two of the present service users who are regularly youth club users. We also hope, once again, to send representatives to the Commonwealth Youth Forum and look to establish links with other member countries such as New Zealand, where a contact was established in 2004 arising out of the local conference Rock Solid. In conjunction with local drama and wearable arts groups, the Youth Service will also be involved in musical and drama productions. Building on the successful projects undertaken this year, these mediums encourage participation, exploration of issues and creative participation. There is much going on in Gibraltar that proves the importance in which Government hold the role of the Youth Service and those entrusted with its delivery. Young people deserve a service that caters for a diverse and sometimes specific set of needs and, indeed, requires it for their continued development. Gibraltar deserves a Youth Service that is responsive to the needs of the community as well as the young people it seeks to work in partnership with. Increasing the Youth Service provision will reflect this purpose as more opportunities for participation and involvement are created in partnership with relevant stakeholders. It is a task that is not easy to fulfil and in recognition of the effort made and in support of their commitment, I take the opportunity to thank all those involved in this demanding yet rewarding work. In particular I want to thank the volunteers for their continued efforts and commitment to this work and the ever present enthusiasm and desire to improve what they already do, often for little if no recognition.

Mr Speaker, moving on to drugs strategy. It has been five years since the launch of the Drugs Strategy Report. During this period many of the objectives that the strategy originally set out to address have been met. In the field of rehabilitation, Bruce's Farm, as I have just said, has continued to provide a service that has earned the respect throughout our community. To date over 300 individuals have availed themselves of the opportunity to deal with their drug problem. Many of these have gone on to become productive members of society, making valuable

contributions to the drugs strategy themselves, through their work in schools, youth clubs, with other recovering addicts and even in prison. As I have stated, we will review how Bruce's Farm operates in order to further build on these successes and to equip it to respond to any future needs. Drug education is already a fixture in all of our schools as from the age of ten. All children entering comprehensive education now have a grasp of appropriate drug information and, more importantly, the underlying issues that can lead to drug problems later on in life. In comprehensive schools we have invested heavily in providing drugs education materials for students and teachers alike. We plan to continue doing this over the next year. Additionally, most teachers have participated in a one-day drug education workshop conducted by the highly respected drug educationalist, Mr Adrian King. By the end of the next academic year, it is expected that every teacher in Gibraltar will have attended these workshops. We have also implemented a drug incident policy across every single school in Gibraltar. This requires that all schools respond in the same way to any drug related incident among their student population. It is reassuring to note that these are only limited to a couple of isolated incidents, and there is no indication that this is a significant area of concern within any of our schools. However, there exists a procedure for dealing with these incidents if and when they arise, to enable the pupils concerned and their families to receive the right kind of help. The emerging results from a recent survey conducted amongst all students aged 12 and over, are both encouraging and reassuring. They indicate that the drugs strategy is making significant inroads in tackling what is an issue of concern to all of us. The revised drugs strategy is currently being finalised and will be made public in the next few months. Amongst some of the issues being looked at, is the provision of greater support for families affected by drug use. We will also look at legislative measures to help the enforcement agencies in their on-going efforts to minimise the harm that drugs exact upon individuals and the community at large.

Mr Speaker, I would now like at this juncture of my speech, to thank my friend sitting opposite me, the Hon Neil Costa, for bringing to my attention at the Parliament's Question and Answer Session, early in December 2007, the fact that the Social Services Agency website page had not been updated since February 2002. This somewhat discouraging reality sparked not only the updating of this Agency's information but that of all the Departments and Agencies which fall within the remit of my Ministry. It also gave rise to the concept of a Ministry website. Since December extensive meetings with Heads of Departments and Agencies, in conjunction with the Information and Logistics Department, have taken place and I am pleased to inform that the Ministry's website is well underway. The Ministry's introduction page giving details of my office are already available on line. Very shortly service users and the general public will note that information pertinent to the Social Security Department and the Social Services Agency will not only have been updated but is much more comprehensive. It will also shortly be noted that the new website pages have emerged for the Youth Services, Office of the Drugs Strategy Coordinator and Consumer Affairs. This part of the project will be followed by the introduction of a web page for the Elderly Care Agency, which is currently under construction and links the website pages to the Citizens Advice Bureau, Office of the Ombudsman and the Gibraltar Regulatory Authority data protection, accessible on the Minister's introduction website page. The overall objective of this project is for service users and the general public to have as much information as possible on line, of all the departments and agencies which fall under the umbrella of the Ministry of Family, Youth and Community Affairs. By information I mean opening hours, addresses and contact details, information on services, links to download application forms, where applicable, and links to pertinent legislation which govern issues relevant to the department or agency. I would also like to take this opportunity to publicly convey to service users and the general public my assurance, and that of the department and agency concerned, that information will be updated as and when required, thus ensuring that the objective of this new service and the dynamics of this project do not

become fruitless, and of course, if my hon friend opposite does spot that some of the information is outdated, he only has to tell me again.

Mr Speaker, moving on to civic affairs. Under my ministerial responsibilities I have been assigned civic affairs matters in my portfolio as such. This comprises the Citizens Advice Bureau, the Department of Consumer Affairs, the Ombudsman and Data Protection. The Citizens Advice Bureau help people resolve their legal, money and other problems through information, advice and by trying to influence policy makers. They deliver information and advice through face-to-face, telephone and e-mail services. They give their clients a voice by using their experience to inform policy makers and service providers about the impact of policy locally and internationally. Over the years they have made changes, innovations and provided new services. It is also a substantial testament to the energy and creativity of all involved in the development of the CAB service in Gibraltar. The whole ethos of service is about helping people, no matter who they are, wishing to exercise their right and obtain fair treatment under the law, and thereby improving their lives. The services provided are, (1) legal clinics, where clients are offered a free diagnostic from a legal practitioner; (2) advice for young people; (3) overseas students are not in isolation, they have the support of an organisation like the CAB to help them settle in the transition from living in Gibraltar to living in the UK. The CAB gives talks, advice and presentations in schools, colleges and youth organisations on the value of the CAB service, money advice, learn to budget and avoid debt, bullying, what to do if they feel they are being bullied; (4) money advice, the CAB works in partnership with local banks, money lending companies and credit cards to help clients ascertain the exact financial situations. Money advice enables clients to prioritise debts and help retain or regain control and responsibility for their own lives; (5) money advice and utility companies. Clients in arrears with electricity are referred to the CAB by the Electricity Department. CAB advisers use the money advice financial statement to enable clients to enter into manageable arrears repayment contracts with the Electricity Department; (6)

keeping Santa smiling. Seasonal leaflets to inform and advise clients on how to avoid debt were printed and circulated at Christmas; (7) discrimination advice. As the body for the promotion of equal treatment of all persons without discrimination, CAB is now able to assist victims of discrimination to pursue their complaint by providing legal assistance with claims under the Act; (8) equal opportunities training day. The Equal Opportunities Act came into effect in Gibraltar in 2006. The CAB organised a training day on equal opportunities for Government Departments. These saw the CAB working in conjunction with the Legislation Support Unit, who provided the training for front line staff to be able to identify possible cases of discrimination and have a general understanding of the key concepts of the Act and be aware of important issues; (9) Citizens Advice International. Gibraltar became a full member of the Citizens Advice International in 2005. Citizens Advice International is a non-profit, non-governmental organisation representing interests of free advice giving associations throughout the world. Their main office is in Brussels. In June 2007 Gibraltar hosted the annual international conference of Citizens Advice International, heads of citizens advice from other countries visited the Rock. In November 2007 at a meeting held in Prague, the Czech Republic, the manager of the Gibraltar Citizens Advice Bureau, Mrs Pili Rodriguez, was elected as chairperson of the Citizens Advice International. This election followed the recognition by other Citizens Advice International member countries of the work being carried out and services initiated in Gibraltar by the Bureau. I would like to extend my congratulations to Mrs Rodriguez in having obtained such a distinguished accolade and by getting the recognition of the very high standard of services provided in Gibraltar; (10) advice for the older persons, computer fun days. As a lead organisation in Gibraltar for advice and information, CAB felt that, in this day and age, people unable to access information from a computer were disadvantaged. In this connection, CAB has initiated and organised computer fun days, where volunteers, computer literate members of the community teach people who have little or no knowledge of information technology, how to access advice and information from a

computer. This initiative has proved to be very successful and two or three computer fun days are held yearly; (11) counselling referral. The CAB has developed a counselling referral system. People who need counselling when they are experiencing a crisis situation in their lives. There are certain situations, including bereavement, illness, loss of employment and relationship breakdowns which are likely to constitute a crisis for the majority of people. Clients are referred to the Bureau by the GP health practitioners and mental welfare officers. CAB refer clients to qualified counsellors for therapeutic work. CAB work in partnership with the Gibraltar Association for Counselling and Psychotherapy Forum to provide these services.

Department of Consumer Affairs. Mr Speaker, in the eight years that it has been in operation, the Department of Consumer Affairs, which took over from the Consumer Advisory Service and was housed at the City Hall, has gone from strength to strength both in effectiveness as a consumer protection office and on its technical know how and professional expertise, and presently deals with many complaints from the general public on goods and services. The field of consumer protection is becoming today increasingly complex and expansive following on European Union Directives. During the year 2007/2008, the Department has embarked on several consumer relation projects. The Consumer Protection Cooperation legislation was brought to the House last August. This EU Regulation has created a network of public and other enforcement bodies across the EU, responsible for the enforcement of consumer protection legislation in Member States. The Government will also be embarking in creating a consumer affairs agency out of the Department of Consumer Affairs. This is desirable in order to give the department the independent status that it requires. It will also give it additional enforcement powers. Although it will be funded by Government, it will be independent and autonomous in the same way as the CAB and the Office of the Ombudsman, and run on similar lines. This would also follow from what other jurisdictions in the UK and the Channel Islands and Ireland have done. The Government is also well aware of the need to introduce consumer legislation and to this end a

draft Bill is being prepared that will transpose all relevant consumer legislation and EU regulation in one go. In the last year the department is also providing a service by staying open during lunch time in order to assist those consumers that are working. They have also been included in the Government website and this assists all those consumers from abroad that have shopped in Gibraltar and wish to obtain assistance from the department. The relationship with the Corporation of London, with whom they have a link, is also very strong and to this end they will be offering them training opportunities and relevant professional qualifications for their staff within the department, as it is desirable and conducive to a good and professional service for the personal employer. A delegation from the Corporation will be visiting Gibraltar during the year. Our director will also be attending the annual Consumer Affairs Conference in the UK at the end of June and the Institute of Consumer Affairs Conference in November. All these contacts and links are invaluable to the department and will enable them to keep up with and access facilities and training opportunities. It will also help them to keep up with what is happening in Europe and elsewhere. During 2007 we organised two awareness events for the Gibraltar consumer. One was on scams and the other the yearly Christmas shopping awareness day. This proved very successful, judging by the feedback they have had, which was greatly appreciated by the Gibraltar shoppers. Their alert early warning system on faulty and dangerous toys and other suspect items, such as electronic products et cetera, is also proving very successful and we have a very good rapport with importers of such goods, in order to act quickly if and when these are identified on sale in Gibraltar.

The Ombudsman. Mr Speaker, there is a healthy working relationship between me as Minister and the Ombudsman. As Minister I am always available to assist the Ombudsman whenever the need arises. The present Ombudsman was initially appointed for a period of five years ending on 31<sup>st</sup> December 2007. He then requested an extension in accordance with the provisions of the Public Service (Ombudsman) Act 1998, and the Government agreed to this

request. Our Ombudsman forms part of a group of public sector ombudsmen that meet three times a year. The group is composed of the United Kingdom Parliamentary and Health Service Ombudsman, the Irish and Maltese Ombudsmen, the three Public Sector Ombudsmen for England, the Ombudsmen for Wales, Scotland, Northern Ireland, the UK Housing Ombudsman and the Gibraltar Ombudsman. Of late the Ombudsman for Bermuda has indicated that she might wish to join the group. The aim of the group is to discuss matters of common interest. A popular item in the agenda is the office's update that each ombudsman provides. This has proved to be a very well received item in their meetings and useful information is always obtained from the experiences of others. The meetings rotate between the different officers and are hosted by the ombudsman of their jurisdiction. Our Ombudsman also attended two other scheduled meetings for the year 2007. In June he attended the meeting which was held in Edinburgh at the invitation of the Scottish Public Services Ombudsman. The other meeting was hosted by the Welsh Ombudsman. The Gibraltar Ombudsman is committed to participate and share in this forum of public sector ombudsmen. This year the ombudsmen have attended a public sector ombudsmen meeting held in London. In April, our Senior Investigating Officer and our Public Relations Officer attended a seminar hosted by the Financial Services Ombudsman on the subject of knowledge management. The feedback has been very positive and they are already working on improving our data collection, in order to enhance the ombudsman's capabilities of research. Finally, our Ombudsman was invited to make a presentation in Bermuda by the Bermuda Ombudsman, on the occasion of the Caribbean Ombudsmen Association Fifth Biennial Conference. The theme of the presentation was "Challenges of Ombudsmen's Work in Small Jurisdictions". The presentation was very well received.

Mr Speaker, the total number of complaints recorded last year has been 343 and 144 enquiries, which compares with 367 complaints and 186 enquiries for the year 2006. This year, year ending December 2007, the Ombudsman carried out a total of 75 investigations out of which he wrote 43 formal reports. Out of

the 75 cases investigated there were 31 complaints sustained and 44 not sustained. Within my areas of my own Ministry, there were no complaints against the Elderly Care Agency and the Youth Services. A total of 24 complaints against the Department of Social Security, of which three were sustained, and seven complaints against the Social Services Agency, of which one was sustained. Whilst it is true that this compares better than last year's report, nevertheless, it is my intention to follow up the Ombudsman's comment within my heads of organisation in order to continue the progress already made. The Ombudsman's Annual Report has been published following last year's format. As was the case last year, the Ombudsman will again be distributing his annual report to the public in general.

Data Protection. The Data Protection Act 2004 requires companies and organisations who keep personal data about people to ensure that the information is collected, kept and used in a responsible manner as laid out in the principles of the Act. The Act also grants individuals the right to know what personal data is being held about them and to know how it is being used. This new right has had a substantial and positive impact in Gibraltar. Many individuals are now using the new rights granted to them to access personal data about them which had previously been denied. Much of this is in the employment arena. The Act has now been in force for over a year and much progress has been made by the Data Protection Commissioner. The Data Protection Division of the Gibraltar Regulatory Authority is comprised of three persons. With this set up the Division is able to carry out its main functions, namely, act as a centre of advice for both individuals and organisations; investigate breaches or suspected breaches of the Act; carry out inspections to ensure compliance with the Act; maintain the Data Protection Register of Data Controllers. In October 2007, the Data Protection Division established a new database to track the multiple tasks being carried out by the Division at any one time. The database also logged all inbound data protection enquiries, except those related to registration. Since October 2007, 50 inbound enquiries were logged, over half of which were

from the public sector. During the period 2007/2008, the Data Protection Division carried out nine investigations, of which seven were commenced as a result of a complaint from an individual. Five of the nine investigations involved breaches of the Act by public sector bodies. In the same period the Data Protection Division carried out two inspections to ensure compliance with the Act. These were carried out on an insurance company and a health care provider. The Act requires a register of data controllers to be maintained. The register contains details of data controllers in Gibraltar, including contact details and details pertaining to the processing operations of personal data carried out by the data controller. The Data Protection Commissioner maintains a system which allows data controllers to register on line, although the ability to register manually remains. At the end of the period 2007/2008, there were 321 registered data controllers.

Finally, I would like to take the opportunity to thank all of my staff spread throughout my ministry for their dedication and hard work in ensuring more and better services to the community. Also, a special thanks to my Personal Assistant and my Personal Secretary for their loyalty, dedication and hard work. Thank you.

#### **HON N F COSTA:**

Mr Speaker, as a newcomer to Parliament I thought it was important to have read past Budget debate speeches and accounts to consider the state of play in respect of the areas of responsibility for which the Leader of the Opposition has entrusted me and certainly, after the lively Points of Order that have just been debated I am glad I so did.

In so doing Mr Speaker, I did come across in last year's Budget Session, a peculiar phrase that was employed by the Hon Lt-Col Britto when beginning to address this House on health and which I thought was worthy of mention. The Minister said that the "non-trying to criticise observer", this is the phrase I was referring to just a few moments ago, would observe an

improvement in health services. The Minister also said various other things, which I will of course address during the course of this debate when considering the Draft Estimates of Revenue and Expenditure. But I was quite surprised with the Hon Lady's opening and very combative remarks that the Opposition is simply trying to undermine public confidence in the health services, that we are simply negative, and I will address those comments too during the course of my speech. But it is indicative that the Hon Lady has sought to criticise the Opposition negatively when she accused us of doing that ourselves. Replying also to what some may have considered to be a somewhat tortured phrase, the one that I said "non-trying to criticise observer", and also when the Hon Lady has said to us the now expected vitriol that she always expresses towards the Opposition, I say to the hon Members that some of the deficiencies and problems in the health services are flagrantly blatant, and there for everyone to see, and it is not for them to say or to impute bad faith to those who dare to speak out against the Government, as some may see as incompetent administration. I am heartened to see that it is an increasing cross-section of members of this society who now feel that they can come out in public and say so when they feel they have had enough of incompetent administration. From first time buyers, some of whom have been placed in an impossible financial situation, whether they like to admit it or not, to disgruntled service users of Government Departments, Agencies and Authorities, and indeed, the shaky pavement tiles on the steps leading to the new hospital were a timely reminder for me, at least, that had to consider Government expenditure on health. Furthermore, truly, people can raise concerns objectively and in good faith and still be critical objectively of the administration and management of Gibraltar's health services, or indeed, of the management and administration of any other public sector. Lest Government Ministers should forget, my role as Opposition Spokesperson is to bring the Government's attention to any and all problems that affect patients and other service users, whether or not they sympathise with the Members on these benches. It may alarm the Government to know that on the Opposition side of the House we are receiving an increasing

number of complaints from previous GSD sympathisers who are beginning to realise that promises mean little with an administration that takes more than eleven years to do anything, if those promises come through at all.

Nevertheless Mr Speaker, in case my opening words to this Parliament were somehow to confirm the Honourable Member's phrase, or the Hon Lady's chant that we are negative about the health services and we do everything possible to undermine confidence in the system, my introductory remarks do not mean to say that all Gibraltarians have had a negative experience at the GHA, not at all. Nor do they mean to say that we do not acknowledge positive developments when they do occur, nor welcome improvements when those improvements will benefit tangibly our community in general. In fact, I can say for instance, that the employment of a second infection nurse, just announced, or the development of training of staff to increase GHA's effectiveness and the establishment of a reminder service of appointments in the Primary Care Centre, are improvements that we on the Opposition do welcome. At the same time we are not paid to publicise what Ministers see as their successes. In any event, the current administration in our view is legendary in praising themselves and have in this Parliament, as they have in other Parliaments, highlighted what they consider to be improvements which are set out "for posterity" as the phrase used commonly in this House in Hansard.

Mr Speaker, we are here to best serve Gibraltar's interests by analysing Government's policies and actions, to identify what in our view and in the view of people who come to complain to us, are shortcomings and to put forward alternatives for improvement. It is the Opposition's very function Mr Speaker, which makes sure that all Governments think long and hard before implementing a particular policy, and which I hope that all hon Members will agree, contributes directly to the services provided in the public sector, which, of course, in the view of the Opposition, would only quantitatively and qualitatively improve with the Opposition sitting opposite.

Mr Speaker, it is strikingly clear to me and by now surely to the majority of Gibraltarians, that although we are in the first session of the life of this Parliament, we live in fact in the twelfth year in what is our view and also in the view of the majority of Gibraltarians, a worn out administration. They hardly listen to the concerns of people on the ground and they only feign to do so when they go to the country. Or, picking up on the Hon Lady's remarks, if they had truly listened to what people have to say, why would they only find themselves with less than 50 per cent of the popular vote and almost out of Government. In the light of past questions and answers, Budget sessions and electoral promises, some which have not been implemented, some which await implementation for more than eleven years, some in such crucial areas like affordable housing and Government accommodation, and other promises implemented well above projected costs, we are in the position to assess and review the state of our nation. It is to this that I address the House on the heads of expenditure on the areas of responsibility for which I have been entrusted.

Mr Speaker, state funded health services are a common and I would say extremely valued feature of Gibraltar life, and something which is only right that the state should continue to fund and to provide. However, that being as it may, the questions we need to ask are whether the services provided are cost-effective, whether the investment is well spent and does not therefore result in government waste and whether the amounts of money spent do in fact correspond directly with the quality of services provided. As the phrase well goes, and as I have read that the Members opposite had previously used once in Opposition, it is not good enough to throw money at problems. Therefore, if that is as the Hon Lady said before, distorting facts and being negative, so be it but that will not make us shirk our responsibility to bring forward to Ministers what we feel are important instances that should be addressed.

Therefore Mr Speaker, let us start, indeed, by considering the investment made by Government, even if in headline figures

only. During this financial year alone, the Government estimates a total forecast outturn of £66,479,000. In respect of the financial year ending March 2007, the Government's actual total expenditure was £59,819,424 and in the year ending 2006, the Government's total outturn amounted to £50,802,666. Howsoever one considers these figures, whether cumulatively or in isolation, they do constitute important amounts of money being invested and also year on year increases. The listening public, therefore, may be forgiven to ask why and how with the amount of monies that have been spent, and which I have just quoted, some of the same old problems do continue to appear. It is an analysis of these recurring problems which I now undertake.

Mr Speaker, if any complainant at any point, and this is to address the remarks made by the Hon Lady before, were to complain to us about any members of staff or any staff member in particular, or any staff of the medical staff, then she can rest assured and I want to assure all hon Members of this House, that those grievances, those concerns, complaints will be brought to the attention of the Ministers. But I have to stress that despite of what has been said, the common denominator evident in all the complaints that we receive, is that all complainants, every single one that I have met, have always been at pains to stress to me that in fact they have no quarrels or complaints with members of the staff, but rather with the management and the processes and procedures which, in their view, has affected the quality of the health care they have received. Indeed, it is true to say that the staff can only be an effective, I can see that the Ministers are laughing at the comments made, it is in fact what we receive by way of complaints by members of the public, and in respect of which I do write to the Hon Lady quite frequently.

Let me start, therefore, with complaints and the complaints procedure. During the course of the 2007 Budget speech, the Hon Lt-Col Britto noted with pride that there were only 74 formal complaints in the calendar year of 2006, with the Chief Executive's annual report, however, noting that there were 78



formal complaints, and which according to the same hon Member reflected "...the reality of the standard of healthcare provided by the GHA..." adding that there were 416 "...tangible expressions of appreciation...". He also pointed out that "...there are all forms of appreciation, but these do not include the verbal ones..." and noted that if he included the verbal ones the numbers would be a lot higher. What a pity, some may remark, that the same hon Member did not mention in the same address, that as set out in the aforementioned annual report, there were 127 informal complaints made during the same year, and that one complainant "had been dissatisfied enough with the way their complaint had been handled by the GHA to request an Independent Review Panel be appointed." Perhaps Mr Speaker, and following on from last year's remarks, if he had also included the verbal complaints, the figures would also have been a lot higher. Be that as it may, the fact that staff received verbal and written commendations from patients seems to us to be perfectly normal given that I have just said that patients appreciate the invaluable work conducted by members of the staff in the hospital. However, the absence of a higher number of complaints does not necessarily equate, as I am sure all hon Members will agree, with satisfaction of the running of the health services. It may surprise the hon Members that there exists other and, in our view, more reasonable conclusions to draw, which also in our view would better reflect the reality, spoken of by the Hon Mr Britto.

From face to face meetings, it is clear that some patients were not aware that a complaints procedure existed, some were very loathe to complain in respect of a system that they were very likely to use again and some even though they did try in good faith to make a complaint, using the internal complaints system, were unable to do so and may therefore be forgiven justifiably, to have come to the view that nothing would have come of making an internal complaint. As the Hon Mrs Del Agua is aware, I did write to her in connection with a particular constituent who very clearly noted his view of the complaints procedure, which in his estimation, was actually designed to put people off altogether. Before the hon Members turn on the

individual and attack his motives and question his integrity, as Ministers are used to doing, because I did have to laugh when it was said that it was us who used press releases to rubbish the GHA, as I said in my initial remarks, that is not true. But before they do turn on the constituent in question, let me say to the House, as the Hon Lady already knows, this is a person who is a qualified professional, very widely respected and almost at the top of his game professionally in Gibraltar. Therefore, if somebody like him found it difficult to make a complaint, then it makes one wonder the difficulty that other members of the public have found in trying to make complaints.

Mr Speaker, I said at the beginning of my address that in order for this debate to yield positive results, we on the Opposition benches, besides highlighting to Ministers what we think are issues that need to be addressed, we also need to recommend alternatives for the Government to consider and implement, as in any case they do sometimes do with our policies. In our estimation, the current system, as I have pointed out just now, is not working, and it is not a surprise either given that from the Government's own statistics there is only one Patient Complaints Co-ordinator employed and from the Draft Estimates, I see that there is not a plan to increase this number. Perhaps this is something that Ministers may consider increasing. It has also been reported in local organs of the press that the current co-ordinator is not experienced enough, and that this has led to junior doctors having to deal directly with complaints, already of course in addition to their already extensive duties. It is our suggestion from the Opposition benches that if Ministers want to restore faith in the system, all that needs to happen are for complaints to come directly to the Ombudsman and that the Ombudsman be afforded real teeth and the patients provided worthwhile remedies. It is true, once again the Chief Minister laughs at my remarks, but it is something which I urge the Ministers to take seriously and, perhaps, they will see an increase in the number of complaints, because unlike the internal complaints procedures of Government, people do feel more comforted and reassured that

our complaints procedure is truly independent and not subject to political interference.

Linked to the complaints procedure, once again, the more they laugh the more it makes me think it is actually true, is the question of independent inquiries when medical members of staff, albeit and understandably anonymously, have spoken out against the GHA. The Government may be loathe to recall that in October and November of last year a local newspaper received a five page affidavit report from a senior doctor, followed by signed statements of other doctors, setting out instances of mismanagement, plummeting staff morale and shortcomings in health provision. Perhaps in the light of the opening remarks by the Hon Lady, she is also accusing doctors, within her service, of trying to undermine the system. These documents, among other things, spoke of the failure to investigate complaints from patients, their relatives and even doctors. Just as seriously, the report is said to give details of doctors employed as specialists in areas in which they were not experienced, therefore leading to a shortfall in the quality expected and resulting directly in increased pressure on junior doctors having to pick up the pieces. These are not our words, this is the affidavit having been submitted by a senior doctor within the Health Service. In the allegations highlighted, not coming from us but coming completely from somebody without political colouring or political motivation, the same report also highlighted allegations that some deaths could have been avoided had they been given correct professional care. If allegations of this seriousness and magnitude do arise in public, whether the Ministers do like it or otherwise, it is the Government's first duty to immediately look into them and if public disquiet does not subside, which it clearly does not because this issue did run on in the press and, therefore, in public debate for some months, then independent inquiries need to be set up to investigate. If they are not true, we will all, all hon Members on the Opposition, breathe a sigh of relief, but if they are true, then an urgent root and branch review will have to be undertaken. Indeed, in this particular instance, what we had instead of the Ministers taking the complaint seriously, we had

the Chief Executive write to the same publication asking for a copy of the affidavit, which, understandably, was not provided to him as journalists do have a duty to protect the source, and understandably, given the fate that is met by people who do dare to come out in public and criticise management of Government agencies. Furthermore, this is not the only instance when Government has heard of the dissatisfaction of members of staff from local press reports in respect of which nothing has been done. But if that were not enough, I also take the opportunity to recall the recent probe only last year of the British General Medical Council, which imposed conditions on a doctor who was on duty at St Bernard's, and whilst not wanting to go into a very harrowing event which we all remember with sadness, the point to be made is that the GMC Panel heard about the culture at St Bernard's Hospital and about low morale. This now, another independent body coming out and speaking of low morale, a common motif and theme which is currently expressed year in year out by members of the Opposition. The Panel's finding, not what it heard, the finding, was that the doctor was working in a hospital which was, in some respects, and I am quoting, "dysfunctional" and once again and I quote "in which other junior medical staff also experienced difficulties and lack of support." Perhaps the Ministers will also want to accuse the GMC of making distorting statements that also want to undermine public confidence in the Gibraltar Health Service. Even if the Ministers question anything they do not like, question polling methods, who they contact, the person whom they contacted et cetera, why they may have said a particular thing, all that Opposition Members and the public are now more than accustomed to, surely some credence must be given to a professional body, such as the British General Medical Council. Once again, we on the Opposition would call for a truly independent body, a system of complaint coming directly under the Ombudsman, so that both patients and staff can attend to raise their concerns and ensure that investigations are carried out freely from any interference. It is our view that taxpayers' money would be better spent in this way. I am afraid, I truly did not want to go into this, but given that we seem to be now in the

habit of commenting on particular members, let me talk about the Chief Executive himself, of the Gibraltar Health Authority.

On reading some of the correspondence provided to me by aggrieved patients, people who are so fed up that they feel they have no other choice but to come to Opposition Members to complain, it is I found sadly, a recurrent feature that the gentleman entrusted with the running and the management of Gibraltar's health services at times seems to me much more concerned with arguing, and arguing semantics even, with patients and their relatives rather than finding what could be very quick and very effective solutions to the problems raised. For instance, and I cite this particular instance as being symbolic of others, I recently wrote to the Minister for Health in respect of a pensioner who suffers from hypertension and who had in the past been prescribed a particular prescription that had served her well for many years, which now the GHA will no longer prescribe. Given that the GHA does receive an estimated £27,900,000 under the Group Practice Medical Scheme, hon Members may find that rather hard to understand. Be that as it may, the Chief Executive asks that the pensioner try the 14 or the 15 generic brands available. Alternatively, the Chief Executive has said that the pensioner could pay the difference between the generic brand and the particular preparation that she was accustomed to taking, which I was informed by the affected lady in person amounts to £3 to £4 a month, which may not be an insignificant amount for a pensioner – certainly not with the raise in utilities and others items that the Chief Minister announced yesterday. A further alternative suggested by the Chief Executive was to bring medical evidence to show that she was allergic. However, and as I did point out to the Hon Lady, a doctor had already informed the Chief Executive by letter that the affected pensioner had already tried four generic brands, which and I quote from the doctor's letter "she could not tolerate..." and that these generic brands and again I quote from the letter "made her feel unwell". The Chief Executive, who must have noted the doctor's comments because he did refer to them in his letter, and after a protracted wrangle with a relative of the affected pensioner, which incidentally addressed all sorts

of issues and where the real cause of the complaint seems to have been put to one side, stuck to his guns in the three alternatives recommended, because in his estimation being intolerant to a medicine was not the same thing as being allergic to a medicine. Whereas we may all agree that those words may have different meanings in the English language, the net effect is that the affected lady does not react well to the generic brands, as has been pointed out by the doctor in question, and requires that that particular preparation be given to her. Furthermore, it was in my estimation a ludicrous suggestion from the Chief Executive which was implicit in his letter, that this pensioner try the remaining generic brands to see which, if any, would sit well with her. As I may be forgiven in thinking, that this totally in our view unnecessary exchange of correspondence does reflect an appalling waste of taxpayers' money which in our view would have been properly spent by simply, perhaps not paying for this particular xxxxxx and paying for the prescription in the first place. Unfortunately, this is only one of many other examples which I will not go into now. But the example I have highlighted is indicative and symptomatic of a serious underlying problem in management. This is the reality of which the hon Member spoke of last year.

Therefore, one must also question the comments made by the Hon Lt-Col Britto when he said in last year's Budget speech that we should remember that health care is and I quote "at no cost to the patient...". One must reflect on that statement now in the light of the instance that I have just revealed to the House. Moreover because on this side of the House, we receive complaints from members of the public who have had no choice but to attend clinics in Spain and pay privately for surgical procedures even in the face of letters from specialists indicating a need for surgical intervention and the Hon Lady is aware of these cases because I have either spoken with her or written to her. So Mr Speaker, on what is the Government spending an estimated £66,479,000 of our money in health services?

Mr Speaker, a lot has been said by the Government, by Ministers and by Opposition Members and which we say and

which we continue to say was mistaken, to convert an office block, yes, there is nothing I found wrong in saying that which reflects a reality. They did convert an office block into a hospital but I do not intend to rehearse those arguments in this debate, save to say that, of course, the structural problems experienced by the office block converted into a hospital and the concomitant expenses to vindicate the policy of the Opposition that a purpose built hospital should have been constructed, and I will seek to demonstrate that in a moment. It is a mistake that, unfortunately, keeps re-surfacing in many different ways. In order to be able to place the current capital expenditure in context Mr Speaker, and to enable the public to decide whether costs are worth the expense, an exercise which I myself had to undertake in order to get up to date on this matter, let us quickly remind ourselves of the money, some may say astronomical amounts, already spent by the Government on the Europort building now converted into the new hospital.

As we now know, in 2003 the Government sold Europort blocks 1 to 4 to the Royal Bank of Scotland for £8.5 million and RBS leased the building back to the Government for 30 years, who in turn sub-let it to the GHA. RBS and the GHA then entered into a £30.5 million works agreement to convert the office block into a hospital. In 2004 an additional £15 million was required and obtained from RBS. It cannot be forgotten either that the Government from its own resources also allocated £1.25 million in respect of the building costs and works, which is £46 million approximately already. Further, in 2006/2007 the GHA spent £3 million for which it described as a final contract payment. Further, in December last year, in answer to Question No. 479 of 2007, costs incurred by the contractor in fixing the hospital plumbing amounted to £176,000. We cannot allow the Ministers to forget that the plumbing works were only conveniently announced three days after the general election. The reason put forward at the time by the Hon Lady opposite, some may call it an excuse, was that the announcement was made at that particular juncture only because works had reached a point where wards and patients would be affected. Obviously, Mr Speaker, it was not foreseeable three days before then. One

wonders, however, whether the whisker that they held on to on election-day would have snapped, very much like parts of the building they are having now to replace, had they been honest enough to publish those figures before the election. Let us not forget either that this new hospital has also suffered many other structural problems, some of which have been accepted by the Government, others which have not, such as, rainwater penetration in wards, accepted by this Government, the unsuitability of the drinking water in some parts of the hospital, also accepted by this Government, and also instances of sewage overflowing into some bathrooms. Well Mr Speaker, the above figures do not reflect entirely the use, some I dare to say have called it waste, of tax payers' money. The annual rent in the accounts for 2003/2004 was just over £3 million, £4,247,360 in 2004/2005, £4,322,736 in 2006/2007 and an estimated £4,377,000 for 2007/2008, which constitutes a total amount of around, almost just under £16 million. Let us not forget either, that as has been confirmed by Ministers that rents will increase by 1 per cent of the level of rent of the preceding year, that is to say, that the increase in rent is a cumulative amount. If we take the rent at an average of £4.35 million per year for the remaining 30 years, that is a staggering £130 million in rent, and this, Mr Speaker without factoring the 1 per cent cumulative increase which will bring it up to £150 million in rent. The previous Minister for Health noted positively that the figures speak for themselves and indeed they do, although not as intended by the Minister.

Mr Speaker, by any standards, the figures I have just cited reveal, in our estimation and also in the estimation of others who have made their opinion known in public debate, as a shocking waste of tax payers' money and a complete and utter vindication, if ever there was one, of the Opposition's policy that a new, purpose-built facility should have been constructed in a new site. I see once again that the Hon the Chief Minister is laughing at my remarks and making furious notes, of course I will look forward to the last salvo that he will have at the end which, of course, I will not have the opportunity to address at the time. We must consider, the request by the Chief Executive of

the GHA to ask a pensioner to pay the difference in £3 or £4 in the light of these figures. It is shameful that such a suggestion should have come in the light of the figures that have been spent. Imagine also if those monies would have been otherwise xxxxxx spent in addition to the annual amounts provided, increased the number of beds, ensuring that no operations need to be cancelled, acquiring more dialysis machines, to employing more doctors and nurses, to completely eradicating waiting lists in the hospital and the Primary Care Centre, for the new purpose mental health facility now, not in 12 year's time, now. The list is endless, does not require a lot of imagination but does require a change of Government. Incidentally, I also thought that some of the comments made by the Hon Lt-Col Britto during last year's Budget address, very revealing of the Government's psyche when he said, I quote, "that the conversion of the building at Europort into a hospital". He even said it, "the conversion of the building into a hospital has been a great.....". Before we were being criticised for having used that phrase. If I may continue, "the hospital continues to attract favourable comments", as if favourable comments on the aesthetics and size of the building somehow translates into the quality of healthcare. Clearly, the Minister and I operate in parallel universes. Furthermore, if patients' families and visiting health professionals knew the costs involved, I dare to wager that they would also decry the new hospital as he accuses us of doing, which of course, we do not. We only bring to Ministers' attention what we feel are matters that require immediate redress.

Mr Speaker, let us look at just some of the more notable examples that I have just mentioned. In this year, in Question No. 207 of 2008, I raised in this House the urgent need for parking spaces for families and friends visiting patients at the hospital and asked whether the arrangement for hospital users to park at Europlaza had or would come into effect. The Hon Lt-Col Britto did confirm that the Government was implementing a policy to operate all Government owned public car parks through a Government owned company, which was being staffed and activated. The same Minister, however, also said that he did not know when the arrangements would be activated. But very

revealingly, the Minister did say, I quote, "I can assure the Hon Member" by that he meant me, "that this is not something that is technically under review, which means nothing is happening." At last, one Government Minister is honest enough to say what a review means under the present administration. He also concluded by saying that "it", by that I understood that Hon Member was talking of the parking arrangements, "would happen very soon." Once again from this side of the House I can only urge the Honourable Ministers to push urgently for this, and especially to sizeably increase the number of parking bays for the disabled, lest a member of the public be tempted to park in a disabled parking bay, for whatever the reason or for howsoever brief a time it may be.

From my reading of previous Budget sessions, it appears that every year there is a debate about bed shortages, but which despite the amount of money being spent by Government with the Hon Lt-Col Britto's clarion call last year, that expenditure on health had tripled to about £60 million a year, the same problem, albeit 12 years and many millions of pounds later, still exists. The instances are well recorded in the press but, unfortunately, the Opposition do continue to receive complaints from patients with no political or other motivation, other than to complain, once again the Hon the Chief Minister laughs, of the inconvenience caused in having an operation cancelled. Some, the Hon the Chief Minister may laugh about this even harder, from within his own political grouping. From May to December 2006, 18 routine operations were cancelled due to bed shortages. From February 2007 to October 2007, 257 operations were cancelled and only 25 because of patients. From February to October 2007, operations have been cancelled every month, save for two months, due to the unavailability of beds: 8 in February, 19 in March, 8 in April, 10 in May, we did not receive figures in respect of July, 3 in August and 4 in September. That makes 52 and therefore an increase in the number of operations cancelled due to the non-availability of beds arising during the period I have just mentioned.

In answer to Question No. 62 of 2008, in respect of the period of December 2007 to February 2008, there were no operations cancelled in December 2007 or in February 2008, but 27 operations were cancelled in January 2008. In a supplementary question, I asked the Minister why bed shortages continued to be a recurrent and consistent cause for the cancellation of operations and also asked whether any steps were being taken to eliminate this problem. Mr Speaker, bearing in mind the figures I have just quoted, which of course were answers given to the Opposition, the Minister replied that she and I quote "did not accept that it is a recurrent thing that occurs continuously." Some may be forgiven if they were to come to the conclusion that the answer is astonishing. They may very well think that, I could not possibly comment. Others may also find alarming the reply and I quote, "that these things tend to happen over the winter months when there is a surge of illnesses and where beds are occupied by acute patients on a more regular basis." But surely, Mr Speaker, all hon Members would agree with me that the Minister's very function is to manage the hospital to make provision for exactly the sort of eventuality during the winter months, when there is a surge of illnesses, as the Hon Lady pointed out herself and when the problem has been highlighted by this side of the House ad nauseam. Mr Speaker, what is the point of pouring millions upon millions of tax payers' hard earned cash if neither the Minister nor the Chief Executive can cater for exactly the same eventuality that occurs every single winter, as she herself points out?

Further, and as the Minister is aware, there have also been reports of older patients having been discharged to have to return, because of lack of beds. Even though the Members on this side of the House, including myself, have asked successive Ministers for Health as to their plan of action, we still do not know and I cannot pinpoint anything in the Estimates, which suggests such a plan. Of course, on the basis of the last reply that it is not a problem, then perhaps nothing is going to be done. However, I am sure that the public is anxious to hear what the Government does intend to do to ensure that bed

shortages and the consequences, such as cancelled operations, are a thing of the past.

Let me drive the point home even further. Within February to October of last year, 30 operations were also cancelled by the consultant, anaesthetist or due to lack of staff. A further 11 operations were cancelled due to missing records – I did take note of the Hon Lady's comments made that the improvement rate has increased at least to 95 per cent or 96 per cent. Of course, that is improvement and of course we welcome that. But having said that, having an operation cancelled, which in real numbers is different, having to mentally prepare oneself, and one does have to put oneself in the position of people who come to address Members of this House in the circumstances. When a member of the public does have to plan for an operation, with all the consequences that that involves, perhaps arrangements for the children, mentally preparing for the operation, having to give notice in at work, arrangements and so on, it gives little comfort to the patient to hear that, well, unfortunately, the operation would have been cancelled in your case so you will be pleased to learn that there has been an improvement of 95 per cent. It is an improvement, yes, we accept that, but given the money being spent more should be done. Let us try to raise the bar to 100 per cent.

Mr Speaker, related to the question of bed shortages arise also health-related questions in respect of the elderly. In answer to Question No. 545 of 2007, the Minister for Health noted that the total number of elderly citizens waiting for a place at Mount Alvernia stands at 197 and the total number of elderly citizens occupying a bed at St Bernard's Hospital as at the end of November of last year was 51. From face to face meetings with constituents, I am also aware of the stress and strains that it causes some unfortunate families who are in the unfortunate position of being unable to find, because of work or other reasons, unable to afford full-time care or be able to spend full-time to care for an elderly loved one. Given that this is something that is very serious, and which I am sure all Members of this House wish to find a speedy resolution to, I would simply

urge the Minister to urgently review the existing policies and procedures to completely eradicate the current waiting list. Some may say that 11 years in Government is surely enough to have grasped the nettle.

I was also very pleased to have heard from the Minister that the vaccination for cancer of the cervix will be introduced. See, we can applaud and welcome initiatives of the Government when they do benefit members of the community, but it also does reflect, in my humble estimation, the value of contribution made by Members of the Opposition to the debate. Thankfully, given the efforts of local individuals and groups, our consciousness has indeed been raised significantly on the question of mental health. In the last political manifesto, the GSD promised a purpose-built mental health facility, which we on the Opposition side, have also supported and have done so for a very long time. Hopefully, this facility will also be built sooner rather than later and, hopefully, the public will not have to wait for many years before the original promise of a new mental health facility was made. Also, although I was glad to read in last year's address by the gallant Colonel, of a seven day week activities programme tailored to mental health service patients and that the GHA had prioritised new funding to support this programme, I have not been assisted by the draft Estimates in being able to determine whether the programme will continue. But in any event Mr Speaker, I wish to refer to a vulnerable group of persons, which in the estimation of the Opposition, by virtue of complaints received, are not being properly catered for or provided for by this administration, and this relates to persons, ordinarily over retirement age but not always ordinarily so, suffering from dementia and Alzheimers. We would urge the Government again urgently to consider the needs of this group and to immediately allocate funds, of which they clearly have plenty of, to provide a respite home for those in need, in addition to introducing mechanisms for early diagnosis so that the proper allocation of provision of other resources can be anticipated properly to meet the needs of the patients using it.

Mr Speaker, in continuing to discuss vulnerable members of our society and moving away from our health services, I turn to Gibraltar's Social Services Agency and to persons with disabilities. On the Opposition side of the House, we would strongly urge the Government to allocate more funds to the Social Services Agency, in particular, to employ more social workers and counsellors to assist and expedite the works of the family courts, to employ more probation officers than are currently on staff and community service officers to expedite the business of the criminal courts. Mr Speaker, the striking denominator from persons who come to seek the guidance or the assistance from Opposition Members is that there is a lack of interface between different Government Departments, Authorities and Agencies, such as, for instance, between the Gibraltar Health Authority, the Ministry for Housing and the Social Services Agency. In thinking of a particular constituent, it would greatly assist that person in obtaining suitable Government rented accommodation especially adapted to his needs, for there to be effective interface between the departments I have just mentioned, rather than having to write to and lobby, in the sense, three separate and different partners. Whereas that may have been the normal state of affairs in the past, in today's world where we have instant communication by e-mail and fax and even the use of telephone conferences, this need not be the case any longer. May I also add, that it should not be for those who fall through the cracks of the system to have to seek out the assistance of those who the people have entrusted with their care, but rather, to do whatever is in their power actively to ensure that the most vulnerable members of our society are given the basic needs and ensuring their dignity.

For instance, a disabled person who requires financial assistance from the state, in the form of disability allowance or other social benefits, cannot be asked to live on a fourth floor of a Government flat without disability access or without a lift. Nor can a disabled person who requires financial assistance from the state be denied the adaptation of a bathroom so that he or she can wash independently on the basis of cost and expense. These things, the right to do these things independently, are as

fundamental a right as, in accordance with the view of Members of Opposition benches, as is our right to express our thoughts freely, and in bringing the matter to the attention of Ministers because it may sadden them to know, which of course they do because I know Ministers have received letters from a particular constituent, that such examples still exist in Gibraltar. Although the current administration surely now not after 12 years in office, have any excuses whatsoever for not having broken the backbone of these problems, the Government should nonetheless launch an imaginative attack, and as the Ministers know, we have been calling for a complete review of the Social Services Agency, and let me humbly suggest to the Ministers some measures that they could take.

Mr Speaker, a current injustice that in the view of Opposition Members is crying out for immediate attention is the full, proper and adequate provision of Government housing and/or low-cost housing for disabled persons and of course those who care for them, their families. Persons with disabilities and who are in receipt of social assistance and unable to work should, in our view, become eligible for the quarterly household cost allowance, as well as extending to them the Minimum Income Guarantee. We would also strongly urge the Government to adopt the Disability Action Plan proposed and to develop this in full consultation with the people who are on the ground and know best, which would be, the Gibraltar local disability movement and attend to the day-to-day necessities of persons with disabilities by once again increasing the number of disabled parking bays for xxxxxx, and controlling the abuse of such parking spaces. It may also assist the Traffic or Transport Commission when looking into the issue of increasing disabled parking bays, that instead of just having a general pool of disabled parking bays, that some of those parking bays perhaps be within proper Government controls, allocated to certain people who live for instance in Willis's Road, and other areas of Gibraltar which are extremely difficult to access, especially for a person with disabilities. Given that the Hon Mr Netto has been so kind before for thanking me for the contribution made in a

past Parliamentary session, I would hope that he will also take some of those measures into account. Thank you Mr Speaker.

#### **HON D A FEETHAM:**

Mr Speaker, quite rightly this House has on many occasions debated and zealously defended our political rights as a people. For the very first time crucial aspects of the justice system are, by virtue of our new Constitution, the responsibility of Gibraltar's elected Government and through it the community that it serves. In every developed non-colonial democracy the Government has at least the degree of role and responsibility for the justice system that the new Constitution gives the Government of Gibraltar. As a Government and a community we must be conscious that the acquisition of seminal rights and self-government comes great responsibility, not only on this side of the House but as a Parliament. We can chase the rainbow in terms of our political rights internationally all we want, but those responsibilities that we acquire we must discharge and we must discharge well. It is that context and that sense of responsibility that will underpin the work of my Ministry during this year and indeed this term. In that context it is also a great privilege for me to present the first Budget speech by a Minister for Justice, exclusively on the justice system.

Last year I announced that Government would be conducting a root and branch review of the entire justice system. The purpose and cornerstones of that review were as follows. Firstly, to ensure that our law enforcement agencies and the judiciary continue to be properly resourced and supported. Secondly, to ensure that law enforcement agencies, lawyers, the judiciary and other stakeholders operate in a modern, efficient, effective justice system that allows them to do their job and, again, to do their job well. Thirdly, to ensure that Gibraltar continues to be the safe and law abiding place it is today, and to ensure that the public, particularly the most vulnerable, are protected. Many of the initiatives that I will outline in this speech are particularly focused on the protection of children and young



people, the family, the vulnerable and improving access to justice via developments in information technology and reforms to key areas in the system. Fourthly, to ensure that stakeholders and the public are properly consulted and engaged in areas where we proposed to institute reforms. We do not, obviously, start this process from a blank page or a blank canvass but there is much to be done. Not only in terms of significant legal reforms across the spectrum of the justice system, but in terms of significant improvements in infrastructure and information technology.

My oath requires me to uphold the rule of law and the independence of the judiciary by ensuring that the courts are properly resourced. It is generally acknowledged that the present infrastructure resources available to the Supreme and Magistrates' Courts are inadequate, and that despite great effort by the staff of both court systems, the level of service which is provided to users is not as high as it could be. In particular, I would highlight the following: the severe limitations which the existing number of court rooms impose upon the system and the consequential delays that result from those space limitations; the inadequacy of facilities to the legal profession and their clients in terms of consultation rooms, where lawyers can take proper instructions and conduct meaningful and private negotiations with opposing parties, before, during and after a court hearing; the almost complete absence of facilities to the public, such as lavatory facilities and very poor access for those with mobility problems; the inadequate security caused by the current layout and court structure, including the absence of any segregation between defendants, witnesses, potential jurors and court staff. There is a more general point but one which is equally important. That is the physical state of the Supreme Court from a heritage, cultural and social point of view, should be a reflection of our community and how we regard our great institutions. In accordance with my Ministry's stated objectives to consult the effective stakeholders and the public, in those areas where they are affected by proposed reforms, we have already engaged in extensive consultation with the entire judiciary, the Supreme Court and Magistrates' Court staff and

the Heritage Trust on the complete renovation, refurbishment and extension of the Supreme Court precinct, which will result in the expansion to four courts and the building of a brand new Magistrates' Court complex at No. 30B Town Range, on the site of the derelict building just behind the Supreme Court. Every one of these stakeholders has seen the detailed plans which have resulted from our consultation process, and several amendments have been made to the plans to take their views into account in what has been an on-going process over the last six months. Detailed surveys have already been undertaken of the entire site together with all the necessary site investigations. Towards the end of this year, therefore, the Government will put this project out to tender but it is not envisaged that construction work will commence until the next financial year. The cost up to tender stage is estimated at £400,000. This will be a major project and investment in our court facilities and a sign of our commitment to these great institutions. Indeed, the detailed plans for the project have been described by the President of the Court of Appeal and the Acting Chief Justice as meeting, I quote, "the needs of Gibraltar's judiciary and the public it serves for at least the next 20 to 30 years". It will also be one of the Government's examples of an integrated strategy for urban renewal and enhancement of our heritage. We will not only restore and enhance one of our listed buildings, but we will convert a neglected and dilapidated structure within the area of Town Range, to serve our community. It is not surprising, therefore, that the Heritage Trust have also welcomed this exciting project. The Trust has asked me to keep it consulted if there are any changes to the plans, and I am happy to provide that commitment openly in Parliament today.

The project will involve the following. The demolition and removal of unsympathetic alterations which have been added to the Supreme Court complex and its total renovation and upgrading to include two additional new courts and ancillary facilities, such as judges' chambers, jury rooms, administration offices, conference rooms, public entrance foyer with security control. The intention is for the Supreme Court to take over the area of the Magistrates' Court which would give the Supreme

Court two jury courts. Two additional courts will be built above those jury courts to hear applications in chambers or trials without jury. That would mean that the Supreme Court will have four courts, each with their own chambers for judges, which will essentially be judges' rooms rather than court rooms as at present.

Absolutely central to this project is the creation of proper conference facilities to allow lawyers and their clients to consult in private and, particularly, to allow parties to attempt to resolve their disputes in private. It is demeaning to say the least for parties, particularly in family cases, to be asked by judges to step outside to try and resolve their disputes and then to have to discuss their private affairs in the courtyard behind the Supreme Court, without privacy and al fresco regardless of the inclemencies of the weather. This project will also allow us to deal once and for all with the perennial problem of how our juries are selected when potential jurors arrive at the doorstep of the court. Already a system has been devised within the design for the new courts and, again, in consultation with the judiciary, to ensure jurors are segregated from potential witnesses and defendants. The project will also involve a major conversion and extension laterally to the building at No. 30B Town Range, which will become the new Magistrates' Court building. The building will have the benefit of three Magistrates' courts, two of which will be of identical size and a slightly larger third court, which will cater for juries in Coroner's inquests. The complex will also offer archival storage facilities; witness areas; administration offices; lavatory facilities and meeting rooms in every floor. All these areas will be serviced by lifts and made disabled-friendly, as indeed will be the Supreme Court. Most importantly, the design ensures that there will be complete segregation between the public areas and those areas where staff work, and between these areas and the areas where remand prisoners will be kept pending their cases being called up, and the route remand prisoners will take to the court, which will also benefit from a secure dock. There will also be a complete overhaul of infrastructure, not only to cater for essential utilities but also the provision of information technology

that will connect the courts to other key component parts of the system, the RGP, the prison and lawyers. It is envisaged that remand prisoners, for instance, which are only required to make a brief appearance in court to say adjourn a case, will be able to do so via camera link between the prison and the court. Lawyers will also benefit and be able to file documents via the internet and will be provided with restricted access, via special codes, to those parts of the court record which they will be entitled to inspect today by attending the registry in person. We also hope to increase access to justice for the citizen by ensuring that more information on the judicial system, for example, court forms and information on procedures, is accessible to members of the public via the internet and, in due course, for fines to be paid via the internet also. As with similar previous projects, such as the refurbishment of King's Bastion, this scheme will set a mark in design excellence within an urban context, where old and new work together. The Government see such a scheme as a sign of our development and maturity as a community, where we rely on our heritage for inspiration whilst at the same time making significant social progress.

As I have said, the Government are committed to increasing access to justice via information technology. I am glad to say that soon all the Gibraltar Law reports will be available on line as well as in printed version. Since 1997 the Supreme Court has contracted a company called Law Reports International to edit, produce and print the Gibraltar Law reports. This has been costing the Gibraltar Government between £35,000 and £40,000 per annum to produce. In January this year I looked into ways of making better use of the available funds, with the additional possibility of obtaining financial assistance from the European Community Regional Development Fund. Negotiations were opened with LRI with a view to obtaining the law reports data already published in a format which could be adapted for publication on the internet, to make them more accessible to lawyers and the public. A new contract has been negotiated with LRI to include the supply in data format compatible with the Government website of all Gibraltar Law reports produced or to be produced by LRI from 1980 onwards, together with a

consolidated index and table of contents; the transfer of all copyright in Gibraltar Law reports existing and future from LRI to the Government of Gibraltar; the editorial, production, administration and publication costs of preparing a new volume of Gibraltar Law Reports, covering the years 1980 to 1990, which lawyers will know is the final historical gap in the reports. All cases appearing on the website will be identical, both in pagination and head notes to the printed copies. In addition, in order to make the judgment's part of the Government website as comprehensive as possible, judgments covering the years 1812 to 1979, which are not part of the LRI contract, will be optically scanned. The total cost of the project will be £68,344. We have already been notified that European funding has been approved for 50 per cent of the total cost and, therefore, the cost to the taxpayer of this project will be £34,172, which is less than the outlay in any given year on the previous LRI contract.

Mr Speaker, the Bar Council has corresponded with me on whether the Government is considering undertaking a similar exercise in relation to English Statutes which apply to Gibraltar by virtue of the English Law Application Act. Following the new Constitution, the Government's intention is to directly legislate in this House such legal provisions as apparently are extended to Gibraltar by the English Law Application Act, and which the Government consider should be extended. It will be the policy of the Government to avoid the need for English Statute to apply directly to Gibraltar in future.

The judiciary has suggested that the Government should also consider appointing a Chief Executive of the combined courts, in order to enhance the management of the combined courts and ensure that management is properly coordinated between the various courts. The Government see merit in this proposal and we believe that a Chief Executive will be particularly useful in helping to coordinate the forthcoming works to all parts of the court system, in a way that minimises the disruption to their business.

As far as the new prison is concerned, this House is aware of the fact that the Government is currently building a new prison at Lathbury Barracks. It gives me great pleasure to confirm to this House that the new prison will be completed in the first half of next year and will, initially, accommodate a total of 74 inmates with a possibility of increasing the capacity to 96 inmates in future by developing the top floor of the prison.

As the House knows, we are conducting or have conducted very detailed consultation processes on possible reforms of a number of key areas within the justice system. I have already spoken about our consultation in relation to the courts. In relation to juries, it is my pleasure to inform this House that we have had an enormous response to our consultation process. Whilst we had initially said that we would wish to have responses by 31<sup>st</sup> May, the response has been such that we are keeping the process open until the end of June. The Government repeat that they will listen to the views of the community before deciding what action to take. This is particularly so in an area such as jury trials which is deeply embedded in our culture and where most of the people participating in the process have no vested interest, other than wishing to ensure that justice is properly administered. It is, however, clear and this is supported by the views that we have already received, that the system is in need of reform and we would be doing a huge disservice to this community if we failed to grasp the opportunity of doing so.

As far as reform of the Legal Aid and Legal Assistance is concerned, the Government await the response from the Bar Council, which I am told is imminent. As with juries, the Government will listen to views but doing nothing or fudging this issue is not an option, as it is patently clear that the system is in dire need of reform. Access to justice is not a mantra for mismanagement and abuse of public funds. On the contrary. Access to justice also means protecting the integrity of the Consolidated Fund. Just to illustrate the concern of the Government in this area. Since 2000 the Government have spent £5,638,000 on legal assistance. It has only recovered during the same period £174,353 from cases won. That is 3 per

cent of the total amount expended on legal assistance. If the position is that the vast majority of legally assisted cases were lost during this period, then it stands to reason that legal assistance should not have been granted on many of those cases, since they clearly did not stand reasonable prospects of success. Reasonable prospects, that is, a more than even chance of success, is an integral part of the test to decide whether cases should be publicly funded, not only in Gibraltar but in the UK and other jurisdictions. If on the other hand the position is that those cases were not lost, but that in many of those cases there was indeed a cost order in favour of a legally assisted party, but not enforced by their lawyers or that those lawyers did not insist on payment of costs as part of an overall backroom settlement, then there has been an abuse of public funds on a scale which would not be tolerated in any other jurisdiction. As I noted in the consultation paper, it is surprising to say the least that those firms who had been the main beneficiaries of legal assistance, particularly in personal injury cases, have ploughed nothing back into the Consolidated Fund by way of recovery of costs.

My Hon Friend Mr Netto has already mentioned our extensive consultation in the context of the Children's Act and our intention to publish a White Paper on this issue shortly. As he has rightly observed, the legislation will deal with much more than simply protecting children in the context of divorce and separation. There are, however, significant implications for this community both from a human and a resource point of view, in how the judicial system deals with children in the context of divorce and separation. There were 121 divorces in Gibraltar in 2006, 101 divorce petitions were issued in 2007. These figures, of course, do not take into account separations, nor indeed the breakdown of common law relationships. These are significant numbers for a small community. As I have said in the past and I repeat in this House, whilst the relationship as husband and wife or partner may end with divorce or separation, the relationship of mother and father continues a lifetime. The biggest single factor in the children's adjustment to their parents divorce or separation is how well the parents restructure the relationship to

continue to meet the needs of the child. Protracted and bitter legal battles not only have an adverse effect on children but represent an increasing financial cost to this community, and in some cases a social cost in the way the children adjust to their situation and community around them. Some of the key concerns about the current legal arrangements which have been put to us in our extensive consultation process on this issue are as follows. Some resident parents, usually mothers, feel frustrated that the other parent makes insufficient effort to keep in touch with their child. Conversely, some non-resident parents, usually fathers, feel they have not been given adequate contact when they have been fully involved in their child's care before separation and continue to meet their obligations in relation to that child. Some non-resident parents, usually fathers, feel the courts are biased towards the status quo, and favour the resident parent, most often mothers, and that delays in arriving at decisions worsen this tendency. Relatives in the wider family, particularly grandparents, can lose contact following separation. In particular, where their contact is linked to the non-resident parents. Resolution is treated often as a one-off event rather than an on-going process at which parents need to work over the long term. Court ordered contact is poorly enforced and in some cases go back to court repeatedly with the court being unable to resolve them.

All these concerns will be taken into account in the proposals when they are published and some key areas will be as follows. The key principle that will underpin the new Children's Act is that in a court decision concerning a child, the child's welfare must be the paramount consideration. Further, the child's wishes and feelings should be ascertained and taken into account, depending on the child's age and level of understanding. This principle pervades all aspects of the legislation not just those involving parental separation.

On the issue of parental separation, the Government firmly believe that a child's welfare is best promoted by a continuing relationship with both parents, so long as it is safe to do so. The Government does not, however, believe that an automatic 50/50

division of the child's time between the two parents would be in the best interests of most children. In many separated families, such arrangements would not work in practical terms, owing to living arrangements or work commitments. Enforcing this type of arrangement through legislation would not be what many children want and would have a damaging impact on some of them. The best arrangements for them would depend on a variety of issues particular to their circumstances. A one-size fits all formula will not work. The Government, however, proposes to move away from such terms such as custody or care and control, which in our view not only contributes to the adversarial nature of matrimonial proceedings, but also reflects an antiquated ethos that a child is the possession of his parents. The term "parental responsibility" will replace the old terminologies and will better describe the modern relationship between a child and his parents and between the parents themselves in relation to that child. There will be a resident parent and non-resident parent, but both will have parental responsibility towards that child. Further, the term "practical responsibility" denotes that on the basis of equality between them, parents have a responsibility to care, educate and maintain their children. In order to do so, they exercise powers to carry out their duties in the interests of the child and not because of an authority which is conferred on them in their own interests. The proposal will also recognise that grandparents may also have a proper interest in applying for parental responsibility in relation to a child in a separation/divorce situation and in relation to other parts of the Act. For example, care proceedings. This is particularly important in a community such as Gibraltar where grandparents play a special and important role in respect of children. The Government is conscious that divorce and separation are very stressful and many parents may feel a loss. Access to good information advice is important to all stages of a relationship breakdown. Well-informed parents are better placed to make soundly based decisions. The Government is keen to ensure that both parents and children have access to sources of advice and information that are sensitive to the needs of people who are experiencing relationship breakdown. Such sources would aim to help

parents resolve issues without recourse to the courts. One specific form of information that has been well received by the working group on family reform and which will be included in the draft legislation, is the parenting plan. This is designed to help parents to reach agreement about parenting arrangements and this information is intended for use, not only by the parents themselves, but also by lawyers and solicitors working with those parents. They will provide specific examples of contact arrangements which are known to work well for parents in a range of situations. This will show what sort of arrangements might best suit a range of family circumstances. We will include an example featuring domestic violence. We will also, together with family groups, devise a DVD to help parents cope with divorce and separation and to help them minimise the effects of these on their children. This DVD will be produced by Gibraltarians for Gibraltarians and at the forefront of our minds we will have situations and problems that commonly occur in this community.

Mr Speaker, turning to our consultation process on the possible increase of the procurement and sale age of alcohol and tobacco. I would like to first of all correct some of the misconceptions that have been repeated in the media on this issue. Firstly, it is not correct to say that the Children and Young Persons Alcohol, Tobacco, Gaming Act of 2006 lowered the sale procurement age from 18 to 16 years old. This has been the legal age since 1960 when section 264 of the Criminal Offences Act was introduced. The new Act was a huge improvement on previous legislation which had been inadequate in a number of ways. Some hon Members will, in fact, recall the 11 year old boy who bought a bottle of whiskey from an off licence shop and was taken to the ITU in hospital prior to the Act being introduced. The shopkeeper could not be taken to court because the bottle had been corked when it was bought on the premises and had not been consumed on the premises. The maximum fines were also inadequate and the maximum fine under that legislation was £50. The Act was therefore a huge improvement on the previous regime and the Opposition, of course, welcomed and supported the Bill and made no

suggestions for amendments at Committee Stage. Secondly, it is not correct to say that our legislation lagged behind proposed amendments to the UK legislation, in that there they are considering introducing a system whereby the police can confiscate drink from any under aged person who is drinking or carrying alcohol in public. The RGP has had the power to confiscate both tobacco and alcohol in those same circumstances since the introduction of the 2006 Act. Thirdly, it is not correct to say that there is confusion, either in the law relating to the displaying of tobacco products on shop windows, or in the RGP's interpretation of those laws. The displaying of tobacco for sale on a shop window is not against the law and the RGP is very clear about it.

The Drugs Coordinator has very recently conducted a survey in our schools which show an improvement in the figures for alcohol consumption since a similar survey in 2002. They are in the process of conducting a further in-depth survey into drinking habits specifically of young people. In addition, there are a number of related issues that need to be and which have been very carefully considered. This is not an issue of merely deciding whether to increase the procurement or sale age to 18. Anti-social drinking regardless of age will also be tackled, as will the enforcement and penalties for breaches of the law. We also, however, have to balance the need to protect young people with the need not to be over-protective in a way that alienates them or that is counter-productive. Further, there is a debate to be had on how far the state should interfere with parental responsibility, particularly with parental responsibility that is exercised in the privacy of one's own home. The Government has not made a final decision as to the package of reforms it intends to introduce in this area, but we expect to be in a position to make an announcement very shortly.

Work is also well advanced on phase 1 of the criminal justice law reform programme. Last year the Government undertook a thorough review of Gibraltar's substantive and procedural laws, which again involved extensive consultation with members of the legal profession, the Attorney General, the RGP, the Prison

Service and associations from a wide spectrum of society. The fruits of that review will be a huge programme of reform which, if passed by Parliament, will ensure that Gibraltar has a criminal justice system that is clear, robust and responds to the needs of this community in the 21<sup>st</sup> Century. These will range from a modernisation of criminal offences to the procedures adopted by the courts and by law enforcement agencies before any cases get to court. Given the size of the project, the project will be implemented in phases. Phase 1 is at a very advanced stage. Areas being looked at in this first phase include the production of a new comprehensive Crimes Bill; legislation protecting vulnerable witnesses; legislation increasing the ability of the Magistrates' Court to deal with more cases; legislation dealing with the issue of the proceeds of crime, plus comprehensive reform of police and criminal evidence and criminal procedure laws. Consideration is being given to helping the courts deal with vulnerable witnesses through special purpose directions, to ensure that in certain types of proceedings, in particular sexual offences or offences against children, a court can protect these witnesses where it is appropriate. These include not only the use of video recorded evidence but, for instance, the protection of the identity of the victim of a sexual crime and witnesses from becoming public. The feedback that we have had from the consultation process is that often the victims in these cases may not want to come forward because there are no adequate, albeit proportionate, procedures to protect them. This is a problem that other jurisdictions have grappled with and we hope to learn from the experiences of other jurisdictions. It is particularly pleasing for me to be able to announce the development of new substantive laws concerning internet crime and, in particular, computerised child pornography and the protection of children against those who are a risk to them. As part of the review process, sentences for existing offences are being reviewed to ensure that they are appropriate for Gibraltar's society today.

My Ministry has also started a wide-ranging review of insolvency legislation in Gibraltar, which is a very important area of law for business in this community. Currently our law is based on the United Kingdom's Companies Act 1930 and its Bankruptcy Act

1914. Although there have been some amendments since, this essentially means that in terms of business insolvency we are over 75 years behind our competitors. For example, there are no provisions allowing companies to go into administration as an alternative to insolvent liquidation. It is worth noting that our legislation has been, despite all this, surprisingly robust, doubtless because of its simplicity and the key will be to strike the appropriate balance between reform and the advantages that simplicity has to offer. It is time that we review our legislation with the aim of modernising it, to enhance the attractiveness of Gibraltar as a place to do business. By this we certainly do not mean to make Gibraltar a place where one can use insolvency methods to easily escape one's debts. But one that allows for the protection of investor interests whilst opening the door to non-abusive corporate rescue. With this in mind, the Government has established a small advisory committee of accountants, lawyers and regulators to provide their expertise on how our insolvency system works and the problems that are encountered. We have also been fortunate in recruiting the assistance of Glen Davis, a leading insolvency barrister and author, and on behalf of the Government I want to thank him today for the assistance that he has given us in relation to this matter. The aim is to establish what Gibraltar wants and how this may be achieved through insolvency law, learning from the successes and failures of the UK and other Commonwealth jurisdictions, and we hope to have a high level recommendation on policy and legal form by the end of this year.

Finally, in terms of reviews of the justice system. Last year I convened a committee of all industrial tribunal chairmen to review the rules relating to the Industrial Tribunal, particularly in comparison with the UK and other jurisdictions. The aim is to modernise and improve the efficiency of the Industrial Tribunal. The Government is also seriously considering the possibility of having a permanent chairman of the Industrial Tribunal, who could also act as a permanent chairman of some of the other tribunals where that is appropriate. Again, consonant with our stated objective of involving and consulting key stakeholders,

the chairman of the Industrial Tribunal and their views are pivotal to that review.

One of the most important developments in policing in Gibraltar over recent years has been the introduction of the Gibraltar Police Authority. It is in many ways a product, and indeed a reflection, of Gibraltar's new Constitution which not only recognised and enshrined our international rights as a people, but also gave rise to a modern non-colonial relationship with the United Kingdom. In that kind of constitutional context it is only right that the necessary structures were created enshrined in statute, to maintain the independence of the police whilst at the same time making it accountable to the Government of the day, the Parliament of the day and the community that we all serve. We are certain that the work of the Gibraltar Police Authority will help improve the experience of those who have contact with the police, provide for an effective community engagement, which includes consultation and public involvement in the production of annual policing plans, to support public understanding and accountability of policing and increase the responsiveness of police services. The Authority is also tasked with the establishment and supervision of the process for investigating complaints against the police. Without minimising the good work done for many years by the Police Complaints Board under, it is acknowledged, very difficult circumstances, this will be a huge improvement in terms of its detail, its sophistication and its independence from the system that we have traditionally enjoyed. It is fair to say that increasingly across all democratic societies, people have higher expectations of the degree of independence that they can expect when organisations exercising powers over them are themselves being investigated.

Mr Speaker, the Policing Plan for 2008/2009 was laid before Parliament by the Chief Minister last week. As will have been seen, tackling under age drinking and the fight against illegal drugs, in all its forms, are key priorities for the Royal Gibraltar Police. The Policing Plan is wide ranging in its ambit, from law and order issues to counter terrorism. Police officers will focus heavily on drinking offences, anti-social behaviour and

burglaries as part of a broader aim to reduce overall crime rates in Gibraltar. I said during a recent speech at the Royal Gibraltar Police passing out parade, that the reality is that the majority of modern police forces today are moving away from traditional models of policing to a model of policing which is more orientated towards establishing a close working relationship with their communities. We hope the Policing Plan will improve the way that people experience policing on the ground, by helping to focus on the needs and expectations of the citizen and the community. Many of the initiatives of the Policing Plan are therefore dependent on fostering tight links with community groups in order to develop in the words of the plan "local solutions to local problems". These initiatives will also involve the need to develop and enhance the relationship between those in authority and our young people.

Mr Speaker, even though Gibraltar enjoys relatively low levels of crime, we must all make a concerted effort to work together to reduce crime even further. I am sure that working together this community will be successful in that objective. Finally, the Ministry for Justice is a new Ministry, both in constitutional terms and in terms of its functions, resources and staffing. The process of building up the Ministry and its role in the community will thus take some time but will continue during the current year.

The House recessed at 1.20 p.m.

The House resumed at 3.00 p.m.

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

Mr Speaker, there are areas of Government policy which are particularly central to the day to day lives of people in Gibraltar. It could be because of the number of people it directly affects or because of the very vital nature of the issues themselves. Both those reasons apply to housing. It is therefore right and proper

that this subject, housing, and specifically the delivery of housing services and the maintenance of the public housing stock, is the recipient of major financial and other resources from Government. I feel privileged and proud to have been entrusted with this important responsibility and to address this Parliament on plans for the year ahead. This financial year is one of innovation, not least given the wide ranging reforms of the new Housing Act, as well as with phasing in of manifesto commitments that remodel and improve current practices. But it is equally a time for consolidating and to continue with the planned approach. Always, however, with sufficient flexibility to embrace new needs, upgrading existing housing infrastructure but also considering new emerging demands. The overall theme is one of investment. This Government remains committed to investing in the context of housing within three main areas: housing services; housing maintenance and new projects. This threefold approach will facilitate further improvements in the delivery of services, response maintenance and refurbishment and tackle emerging needs by large scale construction programmes.

I start with the first of these three strands, namely investing in housing services. The Ombudsman in his annual report of 2007, has indicated that housing has, as is historically the case, attracted the highest number of complaints compared to other Government departments or agencies. It is, after all, an emotive subject and one which will always remain a sensitive area of debate. Compounded, of course, by the usual rumours and ill-informed commentary from those whose desire to score political points must raise an apparent concern. That said, I am very pleased to see that yet again the number of housing enquiries and complaints has reduced considerably from 163 in 2006 to 136 in 2007, which I am sure is a reflection of the collective and positive contributions being exercised by housing staff, and I wish to thank them for their efforts. Nevertheless, more needs to be done in trying to reduce the number of complaints even further. May I reiterate that the Ministry for Housing has updated its systems, including CIT infrastructure, while new counters for housing allocation, housing rental and the reporting



office are in operation and are well serving the purpose for which they have been designed. Members of the general public may now enjoy more modern facilities at ground floor level, properly supported by infrastructure that enables quicker access of information. The reporting office is now centralised so that tenants, I know some of them in the department refer to them as clients but I suppose I am more old-fashioned than I thought, can contact one source when seeking information or assistance concerning public housing, its maintenance or any other related miscellaneous service. In addition, a new complaints desk has been introduced at the Buildings and Works office in Town Range, which aims to follow up on outstanding response maintenance jobs for the benefit of tenants. The desk operates in conjunction with the reporting office and a new PTO has been recruited from within the Civil Service to lead this new facility and to deal with queries, or chase up progress of works on behalf of tenants. Government will assist staff involved with customer care and will continue with proper training to facilitate the services offered.

The Ministry for Housing has in the past made available to the public a number of booklets aimed at providing greater awareness and information on housing matters, maintenance, repairs, rent and rent relief. These continue to be available at our counters, as well as the Citizens Advice Bureau and the Office of the Ombudsman. However, these booklets will this year be fully updated and enhanced in line with the new housing legislation, more of this later, so that members of the public have at their disposal a straightforward, easy to read explanation of their rights, obligations, entitlements, useful contact details and so on. We also intend to publish a second annual report, giving useful information and details of housing provision to members of the public, as well as a number of more detailed and in some cases illustrated articles.

Parking restrictions were successfully introduced in Laguna Estate in April, in order to improve car parking arrangements for residents of that estate. The new arrangements form part of Government's manifesto commitments to introduce parking for

residents only within Government estates, and follows similar set ups at Edinburgh Estate, Glacis Estate, Schomberg and parts of Scud Hill, all of them following consultation with the respective tenants associations. Though the Ministry for Housing will continue monitoring developments, initial feedback from the Laguna Estate Tenants Association, and indeed from individual tenants, has been very positive. I look forward to seeing similar arrangements being introduced within other estates in due course, but I can reveal that parking restrictions within the Alameda Estate will commence next month, again, following consultation with the tenants association. In keeping with the consultative approach, the Government intend to continue meeting with established tenants associations as this remains a valuable source of direct information and feedback on the needs of our tenants. Meetings are held regularly at the City Hall, they are chaired by myself, and, speaking at a personal level, I feel a lot of progress is made at these meetings in identifying issues, and quite often at finding solutions on the spot. Direct feedback is important and with this in mind the Government will encourage such participation. I look forward to seeing this develop further with information of other tenants associations in the future.

One issue that has always been at the forefront of tenants needs has been the strict maintenance of cleanliness within our Government estates, and we remain committed to working together with the private sector in ensuring that our estates remain clean. In addition, we are in the process of considering an extension to the current programme, to include the cleaning of passenger lift carriages within our estates. I am pleased to report that our tenants are, on the whole, very satisfied with the services being provided and so, on behalf of Government, I wish to thank Master Services (Gibraltar) Limited for their contribution, but in particular I wish to thank our tenants, the majority of whom take the greatest of care and attention when pursuing these aims.

As Members of Parliament know, a new Housing Act was passed last year by Parliament. Although, regrettably, without

the support of the Opposition who said simply that some issues were contrary to their philosophy, curiously without explaining which ones, and who recognised they agreed with a number of points but still preferred to vote against the Bill. The commencement date was 1<sup>st</sup> June 2008, and in this context may I remind hon Members that the last review of public housing took place some 36 years ago in 1972, whilst allocation rules were revised in 1994, some 14 years ago. The new Act and its corresponding subsidiary legislation introduced measures that are tuned to the current and foreseeable future needs of our local community. A new and up to date piece of legislation, allowing sufficient flexibility to facilitate proper controls similarly, and in keeping with Government policy, promoting greater transparency through the introduction of a modern appeals tribunal, that allows members of the general public to pursue any relevant grievance. Indeed, tenants and applicants now have the right to appeal to the Housing Tribunal against all decisions of the Housing Department and the Housing Allocation Committee. To therefore suggest, as at least one person has done, that the setting up of the tribunal will somehow deprive individuals of the opportunity of assistance, simply because the matter appealed to is dealt with by the Housing Tribunal rather than by the Ombudsman, can only demonstrate one of two things. Either a complete lack of understanding of the issues, or a desire to purposely misinterpret the facts to suit a political agenda. The truth is that as from 1<sup>st</sup> June tenants and housing applicants have, for the first time ever, the right to appeal against any and every decision of the Ministry for Housing or the Allocation Committee. Rather than lament the setting up of the tribunal, it should be welcomed with open arms. The tribunal is a more open, more transparent and, most importantly, more effective mechanism that gives an affected tenant or applicant a direct line of appeal. To suggest otherwise is quite simply to mislead the public and to paint as black something that is white. Mr Speaker, the legislation will enable Government to set up a single tier for housing allocation, thereby eliminating the current two tier system inclusive of medical and social advisory committees. This will, I hope, facilitate quicker response when dealing with applications that will continue to contain expertise

within the fields of medical and social affairs. The new Housing Allocation Committee will continue to undertake an important and crucial role within our community, and I look forward to seeing real and positive developments shortly. In addition, a Government Housing Advisory Board will be introduced to offer advice to Government on any matters concerning powers, functions and responsibilities in connection with all matters relating to Government housing. To further strengthen the consultative process, there will be a statutory Housing Advisory Council which will advise Government on all issues relating to private and public housing. Formed by a wide cross-section of the community, to be announced very shortly, the council will monitor supply, demand, house prices and affordability, both in relation to purchase and rental housing. This platform will encourage interaction, open discussion and consultation to take place, so that Government may ultimately take note of any potential ideas or implications that may affect or benefit our community. Meetings of the council will be held regularly and we will encourage participants to raise concerns and advise on practical solutions when dealing with housing. In addition, issues relating to private landlords and tenants have been modernised, in keeping with the change of Gibraltar's social needs over the many decades since the now repealed Landlord and Tenants Act was introduced, and following several years of detailed consultation with representatives of tenants and property owners. Among other things, corporate landlords must now make a reasonable financial provision in their accounts, out of rental income, for future repairs and maintenance. Statutory rents will rise but at the same time the new Act protects the rights and position of existing tenants. It also provides further protection to financially vulnerable tenants from the effects of rental increases, by extending for the first time the Government's rent relief system to private tenants in controlled tenancies. A move which I note will be welcomed by many, as indeed will the right to buy, which is now a statutory right. A further announcement will be made later this year, but as hon Members will already be aware, tenants may be able to purchase their flats or houses at a discount to its market value. What is crucial to point out is that all the proceeds of the sales

will be re-invested in more public housing. This is a bold step and one that is in keeping with the overall modern and novel approach on the new Housing Act. The new legislation modernises, improves and makes more transparent the administration of housing.

I now turn to housing allocation, an area that is complex to administer given the need to balance on one hand the aspirations of those who have been patiently waiting their turn on the waiting list with, on the other hand, the needs of the most vulnerable within our society. Finding that right balance is not an easy task, but of course, we must continue and we will continue to help medically and socially categorised cases and to approach their needs sympathetically and professionally. The fact is that there are record numbers of respective allocations taking place, with new and modern facilities being constructed and nearing completion. For example, I look forward to shortly seeing the completion of Albert Risso House, the new Bishop Canilla style complex comprising 140 spacious quality flats for our senior citizens, together with additional facilities to encourage interactive leisure activity. These allocations will in turn facilitate the release of many Government flats that will then be offered to applicants on the respective waiting lists. In addition, and as I recently explained in answer to Parliamentary questions, applicants experiencing social problems are now being offered post-war housing and not just pre-war properties. This way, we can better cater for the greater demand from socially categorised applicants following, for example, a greater number of marital break ups and resulting issues of custody, care and control of children. These and many other concerns have to be embraced and I think the allocation committees and the Ministry are doing a very good job in focusing on the community's real needs. Those same needs adapt with time. People now become independent at a younger age, for instance. As the Chief Minister explained several months ago in Parliament, in due course we shall be overhauling the entire housing allocation system and looking at ways to make the process much more responsive to people's needs. Prior to that,

however, and in keeping with manifesto commitments, I am pleased to announce the following two changes.

The qualifying age to become a housing applicant will be lowered from the current 21 years to 18 years, and the pre-list waiting time, currently two years, will be halved to just the one year. Both these measures will be implemented during this current financial year. This is a convenient point to express my gratitude to members of the Housing Allocation Committee, Medical and Social Advisory Committees, for their excellent contributions and for demonstrating fairness when deliberating cases, many of which are complex in nature. These individuals give of their time on a voluntary basis to undertake the difficult and unenviable task of assessing, advising and allocating public housing. For that I am very grateful indeed.

Still on the subject of investment in housing services, I now concentrate on Buildings and Works which will continue to undertake flat refurbishments, bathroom conversions for senior citizens and others needing such facilities, major works and minor response maintenance connected to Government housing. In order to strengthen operations further, a new Higher Professional and Technological Officer, HPTO, was recently recruited within the Civil Service to directly take charge of operations within the depots. This HPTO post was transferred from Housing's established complement to help improve essential coordination of day to day operations. The Government remains committed to Buildings and Works and this will continue with additional consumables, vis a vis, plant, tools and transportation vehicles. The latter having seen recently an investment of £122,000 for vans, passenger pick ups and larger vehicles dedicated to response maintenance. We will continue to monitor this further and vehicles will be replaced as and when necessary when operational circumstances dictate.

I am also pleased to reiterate Government's commitment to the training of our staff and I intend to substantiate this further by reinforcing health and safety awareness as an underlying cultural theme within Housing and Buildings and Works.

Employees will be encouraged to undertake health and safety training, inclusive of risk assessment, so that they are properly versed and equipped to deal with the dangers that surround those operating, particularly, within the construction sector. In relation to Buildings and Works, I take the opportunity to thank its now former Chief Executive, Mr Manolo Alecio, for his contribution in recent years and wish him well in his new post in the Electricity Authority.

The recent Ombudsman's annual report of 2007 again states that complaints against Buildings and Works has decreased to just 9 per cent. That is to say, by an impressive 17 per cent when compared to 2006. This is testament to the efforts made by Buildings and Works staff in addressing complaints quickly and professionally. But as mentioned earlier in this Budget address, I look forward to seeing the number of complaints reduced even further as a result of the new complaints desk, whereby members of the public may be able to enquire on the status of any outstanding jobs. However, that is not to say the current backlog of jobs is acceptable and sustainable. Indeed, the opposite is true. The overall total of outstanding works has decreased but more must be done by everyone concerned to reduce the current backlog. As can be gathered, there has been real and very substantial investment in housing services and this momentum will continue this year.

I now move to the second of the three investment strands by highlighting Government's commitment to investing in housing maintenance. I should mention that in the financial year 1999/2000, the approved estimates for this head of expenditure, namely Head 3 Housing - Administration and Housing - Buildings and Works, was £6.27 million. Since then, estimated recurrent expenditure has risen steadily. Under the financial year 2007/2008 this reached nearly £8.5 million. This year, our estimates indicate this will rise to £9.3 million. It is expected that further increases in recurrent expenditure during this year of account will be represented mainly by increases in salaries and wages, and to a lesser extent, in expenses related to the general administration in providing those services. With respect

to expenditure in capital projects, an unprecedented level of refurbishment has been carried out in a wide cross-section of Government estates and other housing areas. The policy is not only to provide housing for new tenants, but to also improve the living environment of existing tenants. The works undertaken include the replacement of general roofing, major repairs, the lifts installation programme, which is very advanced, and other projects of a more general nature. During the last ten years, this Government have spent over £30 million in undertaking major capital and refurbishment works to numerous Government housing estates. This is a real commitment to housing infrastructure, and I am pleased to report that during this year we will yet again continue with this positive investment in maintenance to the tune of nearly £2.5 million. The successful windows and shutters replacement programme will continue, together with the commissioning of scaffolding for response maintenance and repairs to housing stock. Obviously, and as mentioned earlier, response maintenance and general flat refurbishments will be carried out by Buildings and Works. They will also undertake non-specialised major works in our public estates through the application of planned programmes.

In addition, the Government is currently engaged in numerous capital projects through private sector contractors, including the Varyl Begg Estate roofs replacement programme and the installation of new lifts, which incidentally is now entering its final phases of completion. Alameda Estate major structural works at Ross House, together with the replacement of refuse bin areas. External refurbishment at Gavino's Dwellings, 51 Prince Edward's Road and 9 Crutchett's Ramp. In addition to these extensive major projects, the Ministry for Housing has recently commenced major works at MedView Terrace, Catalan Bay, and is about to proceed with the replacement of existing lifts at Constitution and Referendum House in Glacis Estate. We also plan to undertake major repairs on the Tower Blocks roofs. Other major capital projects planned for the future include Governor's Meadow House at Alameda Estate, refurbishment at Kent House, Harrington Building, Churchill House, St Joseph's Estate, Bado's Building and Moorish Castle Estate. This rolling

capital works programme will continue to target buildings and communal areas that have fallen into disrepair. This is an extensive and ambitious portfolio of housing maintenance that will help restore many units within Government housing stock. There is much more work to be done, however, in order to undo the lack of attention and care, indeed sheer neglect, shown by those who governed Gibraltar before the GSD.

This leads me to the third and final strand of the threefold investment approach which focuses on new construction. Before elaborating further, I wish to initially summarise what projects we currently have in hand. These include the following: the new Government development for home ownership known as Waterport Terraces, 396 high quality affordable homes on a co-ownership basis; the new senior citizens rental project adjacent to the Waterport Terraces site, 140 magnificent purpose built homes for the elderly; the new Government supported affordable housing schemes at Cumberland Terraces, Nelson's View and Bayview Terraces, almost 400 accommodation units, and the new rentals project, a total of 700 accommodation units of which almost 500 will be at the new mid harbour site. In other words, our programme is an extensive, large scale initiative, ambitious but befitting the needs of our community.

Although not a project spearheaded by the Ministry for Housing, I do know there has been much debate about the delays being experienced in relation to the construction of the affordable co-ownership housing scheme known as Waterport Terraces. This is indeed regrettable. However, as anyone who has even the most basic understanding or experience of major building works will know, delays are common when undertaking large scale and complex construction projects. This Government is determined to keep individual costs of accommodation units as low as practically possible, so that this financial benefit may be passed over to purchasers. That said, the Government will not compromise on the accommodation's final design, nor will it reduce the quality of materials and neither compromise on any spacious configuration. These flats are being built to the highest

possible standards and, as is often the case when constructing large scale complex projects, delays are inevitable. But I must stress that it is far more prudent to safeguard the interests of purchasers early on, rather than opt for cheap alternatives as has been the case in the past, which has been at the expense of poor materials and workmanship. If this is the price that this Government have to pay in order to safeguard the interests of our purchasers over the long term, then so be it. Mr Speaker, members of the general public should rest assured that this Government has no intention of succumbing to quick fix solutions as demonstrated prior to 1996, what can be referred to as "the Harbour Views approach", only later, having to undo the enormous damage resulting from their irresponsibility. Instead, this Government will put in place all the necessary resources to ensure the proper construction of decent homes for our citizens. Homes which they can be rightfully proud of.

As far as the three former OEM developments are concerned, namely Cumberland Terraces, Nelson's View and Bayview Terraces, hon Members will recall that OEM International Limited failed to satisfy the Government that they had sufficient funding to complete these affordable housing schemes. As a result Government moved quickly to prevent delays and to protect the interests of purchasers. These schemes have been taken over by the Government's wholly owned GRP Investments Company Limited which will now complete purchase and sale agreements with the purchasers of these apartments.

Reclamation work and initial preparatory work prior to actual construction has been completed in front of HMS Rooke and adjacent to Coaling Island. These 18,000 square metres of reclaimed land will be witness to about 500 rental homes at what is a prime seafront site. The first estate built for public housing stock since Varyl Begg Estate in the early 1970's. It will provide hundreds of families with quality rental housing in attractive surroundings, with spectacular views of the bay and with underground parking facilities. The tender process for the new rental estate is expected to be completed in about four weeks

time, with construction scheduled to commence shortly afterwards.

To summarise, this Government is working hard to improve all areas related to housing to better and expanding housing services; the introduction of new and practical housing legislation, that is in tune with a modern and prosperous community. We can see the embellishment of Laguna and Glacis Estates, together with external refurbishments at Ross House, Gavino's Dwellings, Penney House, 9 Crutchett's Ramp, 51 Prince Edward's Road, MacMillan, Sandpits, MacFarlane, Willis's, Anderson, Coelho and Heathfield Houses, Knight's Court, I could go on. We are also witnessing the installation of a comprehensive lifts programme, so that our citizens may enjoy greater and improved accessibility and so that the elderly can remain in their homes as long as possible. Our public estates are cleaner than ever before, with the gradual parking restrictions being introduced for the benefit of authorised tenants.

In conclusion, I have outlined our threefold approach to investment in housing within the confines of services being provided, maintenance and refurbishment and finally, through the construction of new housing projects for both sale and rental. This Government's campaign to satisfy the growing demands of a modern society will continue to generate real dividends in the provision of housing services. I believe there is much more valuable, positive, on-going work in this particular field than may be perceived by the general public. As in all spheres of life, of course, further improvements are possible as the nature of housing is forever changing. This we recognise and we continue to work hard on further improving the service provided to the public. The three strands I have outlined are inextricably linked to this Government's aim of prudently steering housing policies that are in tune with the needs of our community. This is at the forefront of our mission, orientating housing services to the needs of the community. This is our ambition and this remains our goal. Mr Speaker, may I finally pay tribute to all my staff both in Housing and Buildings and

Works for their commitment and loyalty to this task. It is my pleasure and my privilege to work alongside them. Thank you.

#### **HON G H LICUDI:**

Mr Speaker, I have a Point of Order to make arising from the Minister's contribution. I heard during the course of the contribution the Minister make an allegation of misleading this Parliament, of the Opposition misleading this Parliament. The Minister will correct me if I am wrong if he did not say that but I heard the words "misleading this Parliament". It is regrettable, and we had this issue this morning already, it is regrettable that having had this issue this morning and with hon Members having been reminded of the rules and of the provisions of Erskine May, whereby if allegations of this nature are to be made, they are to be brought by motion and backed up by hon Members. Yet they consider themselves free to make these allegations liberally. I certainly cannot remember whether the Minister was here this morning when this issue was debated, and again I do not know whether what the Minister is doing is challenging the ruling that was made this morning. I would hope that was not the purpose, but the position was made very clear this morning and yet the Ministers persist in bringing these allegations. That must come to a stop and that must be put right.

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

I am perfectly happy to clarify what I said. What I explained was that the new system in place, whereby there is now a housing tribunal, is a more open, more transparent and more effective mechanism. What I followed up by saying is that to suggest otherwise is simply to mislead the public, and I fully stand by that statement.

**HON C A BRUZON:**

If I remember rightly, the Hon Fabian Vinet made the remark “ill informed commentaries”. Can he confirm that? Is that what he said at the beginning of his speech?

**HON F VINET:**

That is correct.

**MR SPEAKER:**

I do not construe that as an allegation about anyone in this House.

**HON CHIEF MINISTER:**

It is ironical that the newest Members of this House are the quickest to rise to try and be the policemen or it. But if they are going to do it, and of course they have the same right to as any other Member of the House, longevity in the House being irrelevant for these purposes, that they should at least learn the lesson that they ought to be clear of the grounds upon which they do so. His whole submission is based on the false premise that the Minister had said in his speech that somebody had mislead the House. The Minister said nothing of the sort and, therefore, every thing that the hon Member has said is an irrelevant waste of this House's time.

**HON G H LICUDI:**

We certainly cannot agree with that interpretation of the hon Member. Mr Speaker had ruled previously, not too long ago, on issues which suggest or insinuate certain things and there was a ruling to that effect by Mr Speaker quite recently. If that was not

an implicit allegation, if that was not an insinuation that the Opposition misleads this Parliament, I do not know what it was. But it was very clear.

**HON CHIEF MINISTER:**

The Standing Order requires a substantive motion if one is accusing somebody of misleading this House. It does not require a motion to accuse somebody of misleading the public.

**HON G H LICUDI:**

The Parliament.

**HON CHIEF MINISTER:**

No, he said the public not the Parliament. That is the point. That is the very point, that he has not said that anyone has misled this Parliament.

**MR SPEAKER:**

Well, I must say I did follow the Minister's statement very carefully. On a first hearing there was nothing that I found there which contravened the rules of this House. Certainly nothing which caused me to give second thought to the use of the word “misleading”. I take note of the point the Hon Gilbert Licudi has made and I am grateful to the Hon Minister for repeating his words. Quite frankly, there has been no allegation of any Member of this House misleading this House. He has made a broad, general statement as to anyone who construes the provisions as to the tribunal as being a retrograde step is misleading the public, is not really an insinuation or allegation that any Member of this House is misleading anyone else in this House. So I must rule against that Point of Order.

**HON G H LICUDI:**

I am happy to stand corrected and to the extent that I did not hear properly what the Minister said, I am more than happy to stand corrected on this point.

**MR SPEAKER:**

Thank you.

**HON CHIEF MINISTER:**

Just in case he wanted to know the generality. What the hon Member was responding to was an allegation made by the party of which the Opposition are members, in a press release by the spokesman for housing. Not in this House. The GSLP issued a press release saying precisely what the Minister has just commented upon. Nothing to do with anything that has been said in this House.

**MR SPEAKER:**

Nothing was said in this House during this debate about the Housing Act apart from the Minister himself. So there is no question of anyone being accused of anything right now. We have cleared that.

**HON C A BRUZON:**

There is an enduring principle that has to enable Parliament to operate properly and that is that Opposition Members must be given adequate opportunity to make the Ministers fully accountable, that is why we are elected. We must be allowed to use the procedures of this House to the fullest extent to make Government accountable. Now, if this does not make the

Opposition's position feasible or possible, if the procedures of this House in any way restrict our ability to make Government accountable, then may I be so bold as to suggest that we have to look at these procedures so that they may fully cater for Gibraltar's specific needs. That is my introductory paragraph to my speech, which I feel I had to stress because it comes in rather well with what we have just been saying.

Within Parliament, our legislature meets two or three times a year and that has been the custom in Gibraltar from time immemorial. Should we meet more often? That is the prerogative of the Chief Minister of the day. This gives Elected Members on the Opposition Benches very few opportunities to seek information from Government in order to make Government, precisely, fully accountable. There are procedures we are all familiar with which we have to adhere to. There are specific rules as far as asking questions are concerned, there are also rules as to how a supplementary question should be asked and how much debate, if any, the Speaker allows. It seems to me, however, that these rules, and this is my perception in the first five years of my tenure of office within this House, are not as inclined as they should be in the direction of making it possible for Opposition Members, or to give Opposition Members the maximum opportunity of adequately holding Government to account. That is within Parliament.

Outside Parliament, if one happens to be the Opposition Spokesman for Housing, as I have been since 2003, and one engages in writing letters to successive Ministers for Housing concerning genuine human problems that our constituents actually have, because we all share the same constituents within this constituency of Gibraltar, which has 17 MPs, our constituents are free to come to any of their MPs to discuss their problems. If one writes letters to successive Ministers for Housing, and there have been three since I became Shadow Minister for Housing, and the only thing I get is an acknowledgement from the secretary, for which I am extremely grateful, how does this look in the eyes of our constituents, who would expect in my view, their Elected Members to be able to



have meaningful correspondence, meaningful phone calls with the one and only purpose of helping them. I would like to depoliticise politics if I may use the expression. I would like to be able to see Members of Parliament who are truly and genuinely concerned for the people whom they serve. The Chief Minister often enough, sometimes in jest, sometimes cynically, sometimes seriously, says of me that I am on a crusade to help the homeless, to help the disabled. Well look, I do not think he fully appreciates how seriously I take my crusade, otherwise I just would not be here.

Most of my work happens outside this august House but most of my work is done through constant contact with people who come to see me, people I meet in the street, people who write to me and, therefore, when I write letters to my opposite numbers in Parliament, I feel that I should at least get a substantial reply so that when my constituents come to me and ask if the Minister answered the letter, I say well I got an acknowledgement but that is as far as it went. Now, hopefully, and I have been told that sometimes my letters are in fact shown to the Allocation Committee, I do not know if that is true, I hope they do, so that at least my little humble input may do some good in highlighting the reality of the human problems that people are still having to endure regarding housing. It is precisely to hold Government to account that I address Parliament today, within the portfolio of housing, elderly care and the family. The link between them within our social fabric is beyond dispute.

This Government's performance on the vitally important social issue of housing, to put it mildly, leaves much to be desired. In fact, it has been abysmal and has affected many families adversely, young and old alike. Keeping people living in cramped and overcrowded conditions has given rise in the past, and still gives rise today to all sorts of pressures within family members, and frequently gives rise to alcohol and drug abuse, and in some cases to domestic violence. Also in some cases, not in every case, but in some cases I am sure has contributed to the increasing number of cases of anti-social behaviour that we have seen in recent years.

When in August 2005 the GSD Government announced that at last a building contract had been signed for the construction of Waterport Terraces affordable housing project, and gave details of the selling prices, there was an immediate reaction on the part of the majority of people who came to see us, people who stopped me in the street and from every single family member that I had visited since the announcement was made. Some simply said, "it is about time the GSD did something about housing". Others reacted, "the prices are far too high and there are many who cannot even afford 50 per cent of the selling price". The party in Government is on record as having said at the time that the reason why they held back from building these homes earlier was in order to allow house properties to rise. The effect of this has been quite disastrous and one of the bad effects has been that it has driven people who just cannot afford to live in Gibraltar to go and live in Spain. The Government, in an attempt to ridicule the Opposition's claim that many people were being forced to move to Spain on account of their mistaken policy on housing, argued that despite comments by some of a much larger number, only 28 Gibraltar belongs living in the Campo area had applied to buy these Waterport Terraces properties, despite being available on 50/50 terms. The Government should have realised that not all Gibraltarians living in Spain could actually afford even the 50/50 terms. Moreover, the fact that there were only 28 applicants for Waterport Terraces from Gibraltarians living in Spain, was not and could not be taken as evidence that there were very few Gibraltarians living there. If it is evidence of anything, it is evidence that once they have settled down on the other side of the frontier, it is not always easy for them to return to their homeland. It seems to me, that the Government's concept of affordable housing is that priority for obtaining a home is not based so much on how much the purchaser really needs the home, but on whether or not they can afford the 100 per cent of the price. This mistaken policy did not help those who are less well off and it certainly did not help the vast majority of people on the housing waiting lists over so many years.

Sadly, many of us are familiar with the problems that many of the purchasers of Waterport Terraces are having to endure. Problems related to the saga of the ever changing completion dates; problems related to bridging loans, causing enormous financial stress. These delays, particularly, for those with bridging loans, have meant an extension to these loans which has in turn added thousands of pounds to the original cost of the properties. To add salt to the wound, the utter frustration and anguish felt by many purchasers on account of the Government's unreasonable and negative attitude, is something that these people will not easily forget.

As far back as June 2002, the Government stated that that financial year, meaning 2002, would be one of the most important in the history of housing, and this they claimed was being made possible thanks to the GSD Government, which they said was well rooted in the community, giving local issues the importance that they deserved. It was at that time in 2002 that they made reference as to how Government would be providing 500 new apartments, the one that the Minister for Housing has once again announced today, and that they would continue to invest in maintaining the housing stock, build more for home ownership, for senior citizens and rental accommodation. In 2002. This is a sick joke and the Government should be ashamed of themselves, at the way that they have been misleading people, so many innocent people, and their abysmal failure over so many years in not providing our people with the kind of timely and adequate housing that our people so truly deserve.

**MR SPEAKER:**

Order, Order. The hon Member is entitled to be heard, please. Nothing unacceptable was said.

**HON C A BRUZON:**

When in December last year I asked the Government to give me details of the letters they had written to persons on the housing waiting lists, allocating them a non-existent home in the Government's new proposed rental estate, it was revealed that they had only actually issued 490 letters, because they would now not be constructing 700 flats. With reference to the timing of these letters, just days before the General Election, the Chief Minister was initially inclined to deny that he had done it in order to win favour with the electorate. But then acknowledged, in so many words, that that was the reason why he did it, saying, "well, guilty of being a politician but not guilty of any other offence". What? Only guilty of being a politician and not guilty of any other offence? The Chief Minister is guilty of a serious offence against the most basic principles of social justice. That is my view.

**HON CHIEF MINISTER:**

Which principle of social justice?

**HON C A BRUZON:**

In not providing homes for the people who have been needing homes over the last 12 or 13 years. After having said six years ago that 2002 would be the most important in the history of housing, four years later in 2006 they said, I quote, "today the Government announces the building of a new Government rental estate consisting of 700 flats. This will be Gibraltar's second biggest housing estate after Laguna. Reclamation works start in the new year 2007 and building works start later in the year, in 2007". Now we are being told that building works will start after the autumn of 2008, already a year late. Am I right or am I wrong? I know that I am absolutely right in saying that this Government announces things, boldly, with trumpets, clarions and so loud, spin, gimmicks, but at the end of the day,

apart from the Bishop Canilla 80 flats there, I am still waiting after 12 years, I am still waiting to see when Waterport Terraces are going to be completed and what is the estimated completion time for this rental Government estate.

Towards the end of their lengthy press release in 2006, they claimed that this announcement represents the biggest shake up in housing in Gibraltar in 50 years. They conclude by proudly proclaiming, I quote, this is 2006 two years ago, "this is a wonderful day for the Housing Ministry, for all on lower incomes who cannot afford to buy even affordable homes, 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". We are now two years down the line, I presume that the staff in the Housing Ministry are still experiencing great difficulty in administering an insufficient amount of Government stock.

As I observed earlier, Government should be ashamed of themselves in the way that they have failed the people of Gibraltar on the housing front. Only guilty of being a politician? Not guilty of any offence? The Chief Minister is guilty of letting down many innocent people who in good faith put their trust in him over the years. He is guilty of an offence against the most basic principles of social justice, in the way he has failed over the years to make adequate provision for those in need of social housing.

I must now mention something that my colleagues and I have been very concerned about over the years, and that is the increasing number of people on the social and medical category lists. In December 2007, there were 79 people in the social category "A" list. In April this year the figure had risen to 87. These are people that the Government itself acknowledges are in desperate need of help. The medical lists are also on the increase. But not only that, there is an individual there still waiting on the "A" list since 1997. There is another person since 1999, there are six people within the medical "A" list waiting since 2001, one person since 2002, nine since 2003, seven

since 2004, eight since 2005 and 15 since 2006. What about the "A+" list? In 2005 the Government sifted through all the "A" category medical cases and came up with a new even more urgent category which they termed "A+". They said at the time that "A+" cases would require immediate action. When I asked the former Minister for Housing whether immediate meant a few days or a week, I was told that these urgent cases would be allocated a home when one became available. I suppose that if in a few months time there is still an insufficient amount of Government stock, they will probably invent a new category and call it the "A+ special".

When I challenged the present Minister for Housing recently in Parliament, saying that I was shocked in connection with the statistical information that I had been given concerning the social and medical category "A" lists, the Chief Minister explained that the nature of statistics had not varied much for several years, and went on to say that they were no less shocking now than they had been during the last few years. Yes, but whose fault is it that there are still so many people on these social and medical category lists? The Government is to blame and it is their fault that there is still an insufficient amount of Government stock.

Today I hold Government to account. They should not have waited as long as they have in making provision to supply the people of Gibraltar with truly affordable housing and the kind of social housing that so many of our people desperately need. They have, indeed, failed large numbers of families both in Gibraltar and on the other side of the frontier, in not addressing in a more timely way this vitally important issue, and for this I hold them responsible. The blame is theirs and no one else's. We know it, I think some of them know it as well and the people of Gibraltar also certainly know it.

**HON L MONTIEL:**

Mr Speaker, in 1996 there were 12,985 jobs in our economy. In October 2007 there were 19,696, that is, 51.7 per cent or 6,711 more jobs in our labour market. A clear indication that our economy is strong and continues to grow. Notwithstanding this situation, irrespective of how many jobs are created by our economy, there are and there will always be a number of people attending the Employment Service seeking work or to change employment. Through our Job Centre and the pro-active approach of our Employment Officers and Employment Counsellors, every effort is made to work with these persons and help them secure work. As a direct incentive and in an effort to open up employment opportunities for the long-term unemployed, and for those persons who may be particularly disadvantaged, new wage subsidy schemes part EU funded under ESF have just been introduced. In keeping with our manifesto commitments to support persons, who for reasons of disability or severe social disadvantage cannot readily find employment, we are currently in the process of consulting employers to ascertain their willingness to participate and consider the challenges that can be associated with suitable placements. That is not to say, that we are waiting for this review, this process to be completed before we act. Indeed, we have started the process already and we are now entering into a very difficult stage of trying to get commitment, support and programmes of work for people who have mental or physical impairment. Not an easy task I can assure. We will see, when we consult all the employers, what is the support we are going to get from the employers when they are confronted with this reality. Not only in the private sector but also in the public sector. There is a major task to be done to make sure that we have the sympathy, not the theoretical sympathy that everybody agrees with, but when it comes to reality the commitment that is necessary, if all that commitment and that passion fades away.

Indeed, I have just been listening to the previous speaker. Look, I get people coming to see us and they come with the most difficult problems and we write to the Ministers for support and

for action. The problems that these gentlemen bring to the Ministers are the most difficult problems. The Minister has to deal with other problems as well, of people who may not have gone. I may agree with the persons and the sentiments and respect the sentiments of the hon Gentleman. What I cannot agree with is the principles of the politician. Just simply because a person goes to complain to the party headquarters does not necessarily mean that they have more rights than any other people, than cases Ministers are considering. That applies as well in employment. People come to the Employment Service seeking employment, and they come dictating the jobs that they want to have. Well, what we can do is supply them with the jobs we have, the jobs that are available.

The Government has an active policy to train and integrate young people into the work environment, through our vocational training schemes, providing individuals with skills that may be utilised in response to growing customer demands and changing trends. In a highly competitive market, this ensures that many of our youth are trained and given priority of opportunity of employment by local employers. Indeed, more than 30 per cent of trainee placements in the private sector and the VTS are offered full-time employment within the first year. The employment reality is that many of our young people's primary interests are to progress to higher or further academic education at university level. Few consider an alternative vocational technical route. Few, if any, to our knowledge, including those with low academic ability, are clamouring for a job in catering, in hotels, in shops, in bars, restaurants, or even apprenticeship schemes. Contrary to what others would have people believe. That is the reality of the employment market. The Gibraltarian unskilled workforce cannot nor have a desire to compete in these sectors of employment with workers from the new EU states and the developing world. Our goals, surely, must be to confront this reality and unlock the potential of our workforce, by offering more diverse job opportunities and training. This is the only way we will be able to aspire to a high pay, high quality, high productivity and a dignity to work culture.

This is why one of the issues that will be included in the dialogue with the Trade Unions, referred to by the Chief Minister, is the issue of absenteeism and abuse of sick leave in some quarters. Our people's future is in quality training and work ethics. We must adapt and be flexible. It is important to emphasize that the vocational route is also for the academic student. By way of example, there is a trend and a growing demand in the market for qualified health and care workers. In response to this, the Government is addressing the training needs of the Health Authority and Social Services Agencies. By way of another example, as our economy grows there is an increasing demand for craft and general technical skills. In Gibraltar there has long been a shortage of such skills and as a result most of the employment in these areas continues to be undertaken by workers from abroad.

Evidence shows that in the construction and service industries there are real employment opportunities for local people with craft and technical skills. Our contention is that through awareness in school and training via the vocational route, there is a bright future for hundreds of local skilled workers who may wish to avail themselves of these opportunities, as self-employed or even as employees. For these reasons, craft vocational training not just for young people but for all age groups, is of fundamental importance to the individuals themselves. Quite frankly, I would be very happy if through a continued process of training, all we achieved was that the individual himself learned how to do basic craft skills. If only just to do and take pride in doing their things at home. But I am more ambitious than that. I think that we must incentivise our training centres to make sure that we produce the skills that are needed to take over the jobs that are going away to foreign labour. That is the reality, that is the evidence.

To this end I have decided to bring together the Construction Training Centre with the Cammell Laird and Our Lady of Europa Training Centres, in order to deliver more ambitious training programmes in a more cohesive manner. When I say this, it is not that we are just going to concentrate on the traditional

trades, we are going to, together with the employers through consultation with the employers, try and bring about the employers' demands in skills and we will be working with them to produce the skills that they require, in the hope of maximising the skills potential of our local labour force.

Our vision is to centralise resources and expand these in a training establishment that will cater for and provide foundation training in a variety of skills, including apprenticeships in construction, fabrication, mechanical, electrical, mechanical engineering and including the telecommunications trades. Indeed, I can say that as part of the process we are now working together with Gibtelecom to actually train apprentices to the highest level of technicians. A key element in this project will be to engage the cooperation of employers. As such, we are in a process of consultation that we hope will ensure the viability of on-the-job training placements and future job opportunities for our qualified labour force. I should further wish to emphasise that in a developing restrained strategy, due consideration will naturally be afforded to the needs of the less academically able. In order to achieve this aim there will be the need to identify training courses and programmes that will deliver qualifications in keeping with their abilities.

Turning now to my responsibilities for industrial relations. I wish to explain that my approach is motivated by a desire to find common ground between the Government's policy on labour issues and what may be considered to be the union's reasonable objectives. That is why, for example, I support the unions and those employers in the private sector who have put the introduction of an occupational pension scheme under the Government's Provident No. 3 Fund at the top of their negotiating agenda. During my contacts with union leaders and employers, they have emphasized to me the imperative to eradicate illegal labour in our labour market. This is an objective which is most naturally shared by my Ministry. Through our labour inspectorate, we will continue to leave no stone unturned in this endeavour, for we are fully conscious that such

employment is as unfair to the individual worker as it is to the reputable employer in a competitive market.

On the legislation side and very briefly, the coming into effect of the Equal Opportunities Act has required an on-going review of the existing employment legislation in order to appropriately incorporate all equal opportunities provisions and thereby avoid possible conflict. To this effect and by way of consequential amendments, such statutory provisions as appertaining to, for example, the conditions of employment orders, are being addressed. Turning to health and safety. The Government of Gibraltar attaches great importance to all risk aspects arising from work activity throughout Gibraltar. Indeed, it has already been announced in this Parliament that an appropriate general review is to be undertaken. It is envisaged that this review will consider such key issues as may be a new and consolidation of all related legislation, the introduction of approved codes of practices and an assessment of necessary resources. All in an effort to establish an effective and enforcement mechanism, as well as and most importantly, a comprehensive advisory service that will foster the required community health and safety culture.

Finally, rather than to bore any further, may I take this opportunity to give special thanks to those members of staff who share the Government's vision of training and are enthusiastically embarked upon a project to open up real opportunities of employment to the local workforce. I am also grateful to all staff that have supported me during this short period in office and thank you.

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

Mr Speaker, I will begin my contribution by addressing my responsibilities for the environment. I will follow this with Technical Services Department, then with tourism matters and finally with the urban renewal programme.

Mr Speaker, I would like to start on the section on the environment by paying tribute to my predecessor as Minister for the Environment, the Hon Jaime Netto, for his productive efforts and for his dedicated support for all matters connected with the environment. It is true to say that many of the on-going projects in this department at the moment were initiated by him. Now, in relation to climate change and our commitments under the Kyoto Protocol, the climate change forum which was formed in 2006 comprising local professionals, scientists and Government officials, considered in depth the implications of climate change and what measures can be taken to mitigate any possible impacts. A climate change programme which is a Kyoto commitment has been prepared as a result of the consultation and discussions held in this forum. This programme will be made public tomorrow on World Environment Day at the event celebrating this day. In line with the established environmentalist principle, think globally act locally, this programme envisages changes to our daily living and working customs, to our habits and practices, so that Gibraltar can make its proportionate contribution to the global climate change mitigation effort. The programme contains a package of policies to allow for the effective implementation of tools aimed at conserving energy and reducing our carbon footprint. It builds upon the existing obligations set out in local legislation and the guiding principles of the Environment Charter. The forum will continue to advise Government on any new issues, ideas and proposals in respect of our EU commitments. Another issue which was considered during the climate change forum's discussions, was the impact of sea level rise on low lying areas of Gibraltar. As a result of this, and in addition to legislative requirements, the Department of the Environment has commissioned a flood mapping exercise which is intended to identify any locations at risk as a result in sea level rise, as prescribed by the IPCC fourth assessment report. The outcome of the flood mapping exercise will determine what conditions will be placed on building permits granted to future developments. This said and using the precautionary principle, the Development and Planning Commission is already imposing a condition whereby new developments need to cater for the

possibility of a projected half metre rise in sea level. One of the main EU Directives geared towards reducing impacts on our environment is the Renewal Energy Sources Directive. The target set by the EU is that 12 per cent of our energy must be provided from renewable resources by 2010. A report to assess Gibraltar's options for providing electricity from renewable sources was commissioned in 2007. The report comments and updates the position in respect of the development of various technologies. As a result, the Government continues to study the option of installing offshore wind turbines to generate electricity. A project designed for the measuring of ocean currents will also be undertaken within our territorial waters during the next two years, through an agreement being negotiated to explore the potential for the production of electricity from underwater turbines. Air quality monitoring in compliance with the First, Second, Third and Fourth Daughter Directives continues. A passive monitoring undertaken last year has subsequently resulted in the installation of an additional automatic monitoring station in the area of Jumpers, in order to use a reference method for monitoring nitrogen dioxide levels. The position will be reviewed based on the data gathered after two years monitoring. Additionally and as part of the network monitoring upgrades, the Government has commissioned a second particulate matter monitoring unit, namely, a real time PM10 analyser. This instrument will provide a better understanding of diurnal patterns of particulate matter, adding further information to the source apportionment process. This instrument will also add value to the Gibraltar air monitoring programme, by providing near real time information to the public via the website. One of the particle particulate matter gravimetric samplers will be relocated from Rosia Road to Bleak House, and will provide information on ambient background concentrations in Gibraltar without the influence of road traffic emissions. Finally, with regards to air monitoring, a high volume sampler has been purchased to monitor polyaromatic hydrocarbons on a daily basis.

I am pleased to announce that Government has now initiated the process for the undertaking of the epidemiological study.

The two main aims of this study are, (1) to establish whether Gibraltar is a high risk community for cancer due to its location within the vicinity of potential sources of environmental exposure or health hazards, resulting in unacceptable levels of exposure to contaminants or pollutants; and (2) to establish whether there actually exists an incidence of cancer greater than expectations. Although the aims are fairly narrow in scope, it should be appreciated that these underlie the need to paint a broader picture of the health and environmental safety of the area. The following related questions also need to be addressed. (1) Is there evidence to suggest a greater incidence of diseases other than cancer which are known to be related to excessively prevalent environmental pollutants? (2) Is there an increased incidence of a type of cancer not knowingly linked to environmental pollutants? (3) If an environmental cancer risk is found, can it be related to a particular industry or activity? Opposition Members should note that this process has only very recently been initiated and so, it will not be possible to provide more specific details for some time.

With regards to the Water Framework Directive monitoring requirements, arrangements for coastal and groundwater sampling have now been finalised and operations are underway to further develop the monitoring programme. In order to provide an effective and efficient account of coastal water quality, the proposed locations for a total of four monitoring stations have been identified around Gibraltar. Surveillance monitoring will be carried out for a period of one year. The monitoring results will then be used to design the operational monitoring network required under the Directive. A wide range of parameters will be investigated, including physiochemical, chemical, hydromorphological and biological parameters. A screening exercise will also take place to determine which priority substances or other significantly discharged substances should be monitored. The production of the Gibraltar River Basin Management Plan is also part of the project, but this cannot be completed until sufficient monitoring data is collected. One project that will be of assistance in meeting our obligations under the Water Framework Directive, is the waste water

treatment plant. Whilst the condition of our waters is already classified as good, based on sampling carried out by the Environmental Agency, the treatment of our sewage prior to discharge into the sea is intended to help achieve compliance with the Water Framework and Urban Waste Water Treatment Directives. Additional improvements in the field of coastal management will follow the revision of the Bathing Waters Directive. The duties imposed within this revision include a more sophisticated system of bathing water quality monitoring and classification, improved management of beaches and the provision of bathing water quality information to the public.

It was announced last year, following the completion of the waste study report by consultants, that the waste management strategy will encompass a drive to minimise the amount of waste produced, carry out elements of recycling and obtain energy from waste. Progress has been made on this front and recycling bins are now being placed at prominent locations for glass and tin disposal, offering the public a direct opportunity to ensure that this waste is transferred to an authorised recycling facility. Contrary to popular belief that Gibraltar does very little or no recycling at all, hon Members should note that arrangements are already in place, and have been in place for quite some time, to separate locally and to dispose of and recycle elsewhere selected waste at authorised facilities, dealing with specific items such as, metal, wood, equipment containing ozone depleting substances, batteries, ink cartridges, end of life vehicles, mattresses and tyres. The proposed energy from waste plant will help Gibraltar reach its waste disposal goals, whilst at the same time allow us also to meet our Landfill Directive commitments. It is worth noting that the plant is part of the overall waste management strategy aimed at maximising the efficiency of key infrastructural installations, which also includes the sewage treatment plant. One of the key advantages of the new energy from waste plant would be the production of potable water, with the plant having the potential to produce up to 600,000 cubic metres of water per annum. Consideration still continues to be given to the possibility of the plant also producing electricity, but this is technically a more challenging

proposition. Consequently, this seems less likely due to the complications that this will introduce, both into the design and the operation of the plant. Nevertheless, the option continues to be under active consideration.

Clinical waste, for some time now, has been collected separately and until recently, was taken for disposal at an authorised facility outside Gibraltar. However, since last month, a new facility of this nature now exists in Gibraltar itself at Europa Advance Road. The new facility is a local private venture and Government has entered into an agreement with the company so that clinical waste produced by Government organisations is incinerated locally. At the beginning of this year Government transposed the Waste Electric and Electronic Equipment Directive, otherwise known as WEEE. This commits us to the recovery, reuse and recycling of electric and electronic items and targets have been set by the EU in this respect. Targets range from 50 per cent to 80 per cent, depending on the classification of WEEE. The principle being imposed by the EU is that the polluter pays for the recovery of any particular item. So an environmental levy will be imposed on electric, electrical and electronic items at the point of entry into Gibraltar. In order to optimise the collection and administration of the electric and electronic items, an environment park will be set up where WEEE items will be collected separately and transferred to authorised treatment facilities elsewhere. This park will not just deal with WEEE items, with the intention being to provide a central location for selected items of Gibraltar's waste, other than domestic refuse, clinical waste and end of life vehicles, where it can be deposited ready for sorting and preparing, prior to it being channelled into the appropriate waste stream for recycling treatment or disposal.

Another factor associated with the collection and disposal of waste is its temporary storage at centralised bin holding facilities throughout Gibraltar. Such facilities have presented problems in terms of aesthetics and nuisance issues, because disposal of waste by the individual person into these centralised facilities can take place at any time of the day. Despite the fact that



collection only takes place at a prescribed time. This results in refuse potentially staying within such areas for prolonged time periods, and during the warmer months of the year especially, this can create a nuisance to those living in the vicinity of the receptacle, not to mention the eyesore that sometimes results. Over the years many of the existing facilities have been improved, both functionally and aesthetically, with a great deal of more thought now being given to the design of new facilities, so that the problems previously experienced are not perpetuated. The programme of improvement, including enclosures where possible, is on-going. A departmental survey of bin holding facilities and an assessment of current collection arrangements has just been completed, and seeks to establish whether disposal and collection arrangements for each specific area of Gibraltar need to be revised. The survey is under consideration by Government. These measures are intended to improve the refuse collection service and will also help resolve the problem of the apes being attracted to and foraging in residential areas.

The ape management programme is the responsibility under contract of the Gibraltar Ornithological and Natural History Society together with the Gibraltar Veterinary Clinic. This programme has been the subject of local and international adverse publicity recently. I am taking this opportunity to put the Government's position on the record. The welfare of the Barbary apes is in the hands of a full-time dedicated team controlled by GONHS. The various packs are supplied with fresh water and fed twice daily. They are regularly examined by a qualified veterinary surgeon and medically treated when necessary. However, the relatively small size of Gibraltar and the proximity of monkeys, which are essentially wild animals, to the human population centres, presents problems not encountered when animals are in captivity in zoos or in parks. The Gibraltar monkey troops roam freely on the upper rock, their natural areas of habitation, but occasionally and despite efforts to prevent them from doing so, they migrate and take up permanent residence in or near built up areas. This has happened in the past and has also happened recently with a

pack that has moved and taken up permanent residence in the area of Catalan Bay. Despite efforts to relocate them, dating back to the end of last year, this pack remains in this area causing considerable inconvenience and potential health hazards, and safety hazards, to the inhabitants of Catalan Bay, Both Worlds and tourists in the Caleta Hotel. In many cases windows have to be kept permanently closed as monkeys sometimes intrude into homes, cars and have even been known to snatch shopping bags being carried by persons. As well as the natural fear caused, especially in young children, there is the potential health hazard to be taken into account, as these monkeys can transmit food borne diseases on contact and through bite. In such circumstances, the exportation of monkeys is always the preferred option and the first to be considered. However, exportation is only possible if there is a suitable destination and a willing recipient. Gibraltar has periodically made it known in primatology circles that it is interested in exporting Barbary Macaques, and reminders to this effect are made as and when appropriate. For example, in 1998 24 monkeys were exported to Daun Wildlife Park in Rheinland, Germany. However, no other suitable locations have been identified or exportation arrangements made in recent years. But there are continuing efforts to do so. It has been the practice in the past, by the way, for the Government to meet the costs of such relocations of monkeys. Government accepts the recommendations of those who are responsible for the ape management programme, even when those recommendations are that the only action available is that of culling. Members should also be aware that there is an on-going programme of contraception of female monkeys in order to control population growth. Members may be interested to note that the first recorded culling of the apes dates back to 1885, and it is known that the practice has continued at periodic, regular intervals since then. I would like to reassure Members that culling of monkeys takes place very infrequently and only as a last resort, and after all other options have been exhausted. Such actions only take place in very controlled circumstances. They are only done by a vet who injects a lethal solution only after the monkey

has been previously sedated and there is therefore no suffering caused to the animal.

Mr Speaker, the principle objective behind the Habitats Directive is the preservation, protection and improvement of the quality of the environment through the conservation of natural habitats and of wild fauna and flora. The Directive requires Member States to undertake surveillance of the conservation status of natural habitats and species, with particular regard to priority natural habitat types and priority species. Surveillance monitoring is on-going and the habitats report for the term ending in 2006 has already been forwarded to the EU. Work is now underway for the report for the period ending 2012. The results of the monitoring will inform any plans and programmes to ensure a favourable conservation status is maintained throughout.

The Department of the Environment will again be organising and participating this year in the celebration of World Environment Day, which is tomorrow Thursday 5<sup>th</sup> June. The purpose of celebrating this day is to stimulate worldwide awareness of the environment. Each year the United Nations Committee selects a theme and this year it is Carbon Dioxide Kick the Habit towards a Low Carbon Economy. The format of this year's celebration will concentrate on presentations by schools and also by others, for the benefit of schoolchildren and their parents. The event will be held at the Tercentenary Hall and an innovative feature that this venue offers is that it allows for a wider audience, as the event has grown in popularity year on year. I place on record my gratitude to the Department of Education and to all the teachers who have again supported this event with dedication and professionalism. Everyone who attends tomorrow will be able to appreciate the good work carried out by those teachers, and the level of knowledge already available to our youngsters through their efforts. The Trade Fair, which was a success last year, will be held again, this time in the Sports Development Complex and this will be open to the public throughout the morning.

Mr Speaker, the contract to provide sound attenuation to the building housing the OESCO power station was awarded earlier this year and works have already started. When completed, not only will there be a short-term benefit through the reduction of noise levels in the area, but also a long-term gain for any future uses of the building. Under the EU Directive on the assessment of environmental noise, we are obliged to monitor and report on noise levels on roads which exceed a traffic usage threshold of 6 million vehicle movements each year. In order to do this, traffic counts have been undertaken on a number of our major roads and noise mapping will have to be undertaken of those roads that exceed the threshold value. The results of the mapping exercise will inform the plans and programmes of measures that we will need to take.

Work has also now been initiated to implement the requirements of the EU Directive on the energy performance of buildings. It will introduce measures to ensure more effective use of natural resources for the functioning of the working and habitable areas, and also monitor the efficiency of heating and cooling equipment in property developments. The Energy Performance of Buildings Directive is set to promote the improvement of energy performance of buildings with the introduction of four requirements that need to be implemented by Member States. These include: (1) the general framework for a methodology of calculation of the integrated performance of buildings; (2) the setting of minimum standards in new and existing buildings; (3) the energy certification of buildings; and (4) inspection and assessment of heating and cooling installations. As required by the EU Directive on energy end use efficiency, another publication that will be published is the energy efficiency action plan, which centres on introducing practices that lead to saving on the unnecessary use of energy. This Directive is intended to promote a cost effective improvement of energy end use efficiency, and to develop a market for energy services. It aims to increase energy end use efficiency in the energy services sector and sets energy savings targets to be met by Member States. An overall national indicative energy savings target of 9 per cent is set to be achieved by 2016. As part of the intention

to try and reduce carbon emissions, it encourages the public to use the bus service, walk or cycle to work, rather than use their cars or motorcycles. The provision of bicycle racks is essential if people are to be encouraged to use their bicycles as a more environmentally friendly and healthy means of transport. This past year has seen the first installation of bicycle racks at various locations throughout Gibraltar, such as Line Wall boulevard, Irish Place, Chatham Counterguard, Casemates tunnel, Landport carpark, the Leisure Centre, Reclamation Road and Devil's Tower Road.

On the subject of procurement, work has been carried out in conjunction with the Government's Procurement Office to introduce a more rigorous examination of the environmental performance of products procured through Government tenders. This measure seeks to increase the availability of environmentally friendly products in Gibraltar. Government will continue to look at possible ways of encouraging the public to use energy saving household items, as opposed to similar but less environmentally friendly items.

I will now turn to the Technical Services Department, which has during the past financial year continued to be heavily involved in delivering many of the Government's major projects, ranging from street beautification to new car parks. Many of these projects have been completed and others have progressed through the pre-contract phases. The present year will see the completion of several more and the start of others. The continuing programme of beautification works in the city centre area saw the completion of further phases of the Orange Bastion scheme. This project in its entirety extends from Reclamation Road, moving through Fish Market Road and Market Place and ending at the junction of Corral Road with Winston Churchill Avenue. Following on from the completion of the first phase, which entailed the creation of the new link road, as well as the restoration of the Orange Bastion itself and the existing vaults within the Chatham Counterguard, the second phase tackled the whole length of Fish Market Road. The aesthetic improvements were carried through, including

illumination of the city walls and the refurbishment of the vault facades. The third phase, which covered the Market Place area, was also completed yielding not only aesthetic changes to vastly improve the urban environment, but what is in effect a main entrance to our city but also major changes to the traffic circulation arrangements for buses and pedestrians. The clock tower, a familiar landmark, has been retained in the area. It is intended to proceed with the completion of the remaining phases of this project. This will involve the beautification of Corral Road up to Winston Churchill Avenue, as well as the access road up to Landport Gate. This will provide a link with the very successful Casemates Square project, that when combined with the Market Place scheme, will complete the enhancement of the main pedestrian entry points into the city.

Moving to the other side of town, the next phase of works to beautify the southern end of Main Street and provide new services infrastructure has already started. When completed it will serve to extend the city centre beautification project up to Southport Gates and improve the environment in this area.

Moving on now to highways and parking related projects handled by the Technical Services Department, construction of a new link road between Castle Road and Willis's Road was completed during the past year. This road was officially opened to traffic on 12 April 2008 and has been the catalyst towards providing an improved traffic circulation system in the upper town area. A number of changes to the existing roads has meant that the historical conflict between vehicles travelling to and from the Moorish Castle estate area has now been removed. In parallel with this, the number of on street parking spaces has increased, where two way roads have been converted into one way roads, such as Willis's Road and Castle Road.

The final phase of the demolition and replacement of the full length of the existing balustrade along Europa Road and South Barrack Road is currently underway and will be completed during the present year. The second phase was completed

during the past year and 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 is on-going and will continue this year with on-going repairs to footpaths, roads and retaining walls. It is always difficult in a place like Gibraltar to balance the need to maintain our road network, against allowing vehicles to circulate. The surfacing and repairing of major roads will therefore be undertaken in a manner that will avoid disrupting the flow of traffic during peak hours. New initiatives have been implemented by the Department to minimise inconvenience to the public by working after hours and during weekends. In addition, the Department is tasked with coordinating and approving all requests for works on the public highway, be it for their own works programme or for works by private developers and utility bodies, to ensure that any disruption is kept to an absolute minimum.

A major highways related project, which is currently being designed by this Department, is that of the Trafalgar interchange. This project is aimed at improving traffic circulation around this crucial part of our road network. In parallel with this project, design work will also continue for the proposed new Dockyard road, which will provide a new route for motorists that will eventually further improve the situation in the Trafalgar area. The past year has seen the completion of several projects related to cliff stabilisation and coastal protection works. Amongst these were the works to the cliffs above the eastern side of Laguna Estate, and the repairs to the rock armour revetment along Harbour Views promenade. The revetment protecting the reclaimed land at Camp Bay also benefited from major works carried out in parallel with the beautification project in the area. A major project programmed to begin this year will be the rockfall protection works to Dudley Ward Tunnel approach road. During the past year, the Department has worked on preparing the design and contract documents for the scheme, culminating with the project being put out to tender

following a pre-qualification stage. Its magnitude is such that the duration of the works will not be short, but once completed a key section of our road network will be reinstated.

Mr Speaker, the Technical Services Department will this year continue to manage many of the major projects in Government's extensive programme. Included amongst these is the construction of the new prison at Lathbury Barracks which the Department has been managing over the past year. Its completion will allow the current site of the prison to be vacated, thus allowing for future expansion of the Tower of Homage restoration project. The demolition of the various buildings situated at British Lines are being completed to make way for the construction of the new air terminal building and the new frontier access road.

I will continue by addressing tourism matters and I am pleased to report that 2007 was yet another good year. Gibraltar's tourism industry continued to grow with the total number of visitors reaching 9,430,102, which represents an increase of 15.2 per cent on 2006. Every year we are used to hearing the Opposition Spokesman for Tourism point out, as this year he will no doubt once again point out in his contribution, that this figure includes non-tourists. He should realise that this has become a tiresome argument with which he tries each year to avoid accepting how successful the Government's tourism policy continues to be. If the hon Member is patient maybe he will get his answer. For example, one of the things the hon Member tries to avoid is realising how successful this Government has been since elected in 1996. For example, visitor arrivals have risen by 46.19 per cent. It is also interesting to note, that in his Budget speech on tourism last year, the Opposition Member asserted that there were already 6.5 million visitors coming into Gibraltar in 1996. It is politically hypocritical for the Opposition Member to herald as a success this figure achieved in the past before the GSD came into Government, yet studiously avoid any mention of his argument about non-tourists being included in the figure for that time. In any case, the argument about frontier workers more properly applies to visitors by land which, as hon

Members will have seen from page 10 of the 2007 Tourist Survey Report, rose by 14.9 per cent in 2007 in comparison to 2006. Now, Members should note that according to the Statistics Office of the Government, even if frontier workers are excluded from the statistics for both 2006 and 2007, there would still have been 7,817,161 visitors by land to Gibraltar in 2007, an increase of 14.1 per cent, as opposed to the 14.9 per cent if the statistics include frontier workers. So it is no good saying that the frontier workers distort the statistics, there is still an increase of over 14 per cent. So, whatever the statistics that are used, the fact remains that last year some 8 million visitors entered Gibraltar by the land frontier with Spain and that this represents an increase of more than 14 per cent on the previous year. This increase was in spite of a continuing downturn in the traditional package tour market in Spain, which is the source for the majority of the day trip visitors to Gibraltar. Incidentally, Gibraltar continues to be the top selling day trip destination from the Costa del Sol.

Now, each year at this Budget session, I have heard the former Minister for Tourism, my colleague Joe Holliday, describe how Gibraltar's tourist product has improved and how the number of visitors to Gibraltar continues to increase. He has always portrayed the story of Gibraltar's tourism as a successful one. However, each year I have also heard his counterpart, the Opposition Spokesman for Tourism, attempting to deny this success by selective use of the statistics, in an attempt to put spin on these to cut down on the success of the Government's policy on tourism. Because our system is such that the Opposition Spokesman always speaks after the Government Minister, it has therefore not been possible for my colleague to personally reply to him to correct in the past. I have said it is not possible for my colleague to reply which is a fact. Therefore, as part of my tribute to the hard work and efforts of Joe Holliday as Minister for Tourism, and to show how successful his policies have been since 1996, I will set out and give this House a direct comparison between the past and the present. I will directly compare the performance of the Government, the performance in Government of the party which the hon Member, the

Opposition Spokesman for Tourism has formed an alliance, with that of this Government since 1996. For example, let us look at other variables about which no distracting or detracting claims can be made as to the effect of non-tourists on statistics. Between 1988 and 1995 when the GSLP were in government, tourist air arrivals fell by 53.86 per cent. They have risen by a staggering 141.12 per cent between 1996 and 2007 when this Government came into office. Of note too, is that arrivals by sea increased by only 20.32 per cent between 1988 and 1995, but have risen by 156.76 per cent between 1996 and 2007. Now, before anyone on the Opposition realises that we are comparing an eight year period with an 11 year period, let us compare like with like, or apples with apples as I am fond of saying. In the seven year periods between 1988 and 1995 air arrivals fell by 53.86 per cent but rose by 72.89 per cent between 1996 and 2003. To take another example, arrivals by sea rose by 20.32 per cent between 1988 and 1995 but increased by 43.92 per cent between 1996 and 2003. The "so what" that I hear from the Opposition is in answer to the criticisms that the policies of this Government on tourism have not been successful. But I am proving how successful it has been in comparison to what happened in the past.

The Opposition Spokesman for Tourism in his contribution last year also said that Government should be more careful about the claims they make when quoting tourism statistics. It seems quite clear to me, as who should be careful about what they say in this regard. The figures speak for themselves and clearly show that this Government can claim greater success than others in attracting more visitors to Gibraltar. Let us go on, I have not finished. The total estimated tourism expenditure figure, according to the 2007 Tourism Survey Report was £230.58 million which represents an increase of 9.54 per cent year on year. Last year, the Opposition Member asserted that tourism expenditure was stagnant. We could hardly describe an increase since 1997 of 107.73 per cent in tourism expenditure as stagnant. I would take this opportunity, to mention that yesterday the Hon Mr Bossano asked for an explanation in respect of the increase in expenditure by visitors staying in

hotels, from £20.3 million in 2006 to £26.88 million in 2007. He asked whether the way the figures were calculated had changed. I can confirm that there has been no change in the methodology of the expenditure calculations.

**HON J J BOSSANO:**

I did not say if they had been changed. What I said was, could he tell me whether the source was the interviews carried out from people at the airport or whatever, or the information provided by hoteliers. That was the question, because the last time in 1997 or 1998, we found that there was a sudden jump in that area and after a lot of debate we finally got to the bottom of it and it was because of a shift in the source of calculation. That was the point I made not whether there had been any change.

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

I understand that, I thought he also said whether we had gone back to doing what we were doing back in 1997/1998. Let me carry on so I can address this point. The traditional method of calculation has been to apply the average length of stay, as reported by the hotels, to the number of arrivals and to their average expenditure as calculated from the Tourist Survey. Now, during the years 1991 to 1997 inclusive, the average length of stay for the purposes of this calculation was taken from the results of the Tourist Survey. Since 1998 to date, the basis was changed to the average length of stay, calculated from the returns supplied by the hotels. Thus, the reason for the increase of £6.5 million in the expenditure of visitors staying in the hotels is not as a result of a return to the 1991/1997 method of calculation, but is seen as a result of, firstly, more arrivals in hotels in 2007 compared with 2006; and secondly, the fact that the 2006 figure did not take account of new organisations that were included as part of the hotel occupancy survey for the first time with effect from that year. If they had been, the difference

between both years would have been less but expenditure by visitors staying at hotels would have been higher in 2006.

**HON J J BOSSANO:**

I have difficulty with that explanation, because in fact, whether there are more people and they stay longer should not have an effect on the daily rate. What I questioned was why is it £134.70 a day? That is what produced a higher figure. Now, the fact that there are more hotels and more people and more nights, from my understanding, in fact, people tend to spend more in shorter visits than longer visits. If they are longer then normally the average daily rate does not stay as high. So I cannot see that the explanation that he has given me addresses the question. My question was, we have worked it out by doing precisely what he has told us should be done. We have gone to the Hotel Occupancy Survey, we have taken the numbers of visitors, we have taken the average number of nights, we have multiplied one by the other so we have had the number of guest nights in the year, then we have divided the 26 million by the number of guest nights and we come up with the figure of £134.70 a day. Now, I wondered if there was something in the calculation because that figure seems to us to be higher than normal. But the explanation as to the way it is calculated, it so happens that that is the way we calculated it on the information that he provided last week when he gave us the reports. Simply because from 20 per cent to 26 per cent in one year increase sort of struck us as unusual, that is why we did the sums.

**HON CHIEF MINISTER:**

Well, as the hon Member knows, it is not an invitation for him to drop his guard as to the accuracy of what I am saying as he accused me of when he asks me, whenever I prefix things, "as the hon Member knows" he says. It is an invitation for me to disregard what I say. The expenditure is divided into two elements, hotel expenditure and other expenditure. It is in turn

divided into arrivals from the UK, arrivals from Morocco and arrivals from Spain.

**HON J J BOSSANO:**

We do not have the breakdown.

**HON CHIEF MINISTER:**

I understand. Just taking as an example arrivals from the UK, as between 2006 and 2007 the average expenditure per person per day on hotel expenditure actually fell. It was £74.62 in 2006 and £74.41, a few pennies lower, in 2007 and the answer to the hon Member's question is that that information is provided by the hotels. The amount of expenditure on hotels. The other element is the other expenditure, which again, using the case of the arrivals from the UK was £43.85 in 2006, the daily per person rate of expenditure, and £55.83 in 2007. That information, as to the other expenditure element, is taken from the Survey. Now if the hon Member is interested in the same breakdown for arrivals from Morocco and arrivals from Spain, I can give them to him. In the case of arrivals from Morocco, the figures in respect of hotel expenditure are the same as the ones from the UK. Obviously because they stay in the same hotels. In the case of other expenditure, however, arrivals from Morocco is £19.00 in 2006 and £19.00, that is to say no increase, in 2007. That also is taken from the Tourist Survey. In the case of arrivals from Spain, obviously the hotel element is the same. The other expenditure is £44.42 in respect of 2006 and £62.71 in respect of 2007. So the other expenditure is always taken from the Tourist Survey as opposed to the hotel expenditure. Now, why other expenditure, particularly in the case of arrivals from Spain, increase from £44.42 in 2006 to £62.71 in 2007, I cannot tell him. One reason that I can perhaps offer by way of speculation is the exchange rate. In other words, that the Spanish visitors' euro went further in pounds as the euro

strengthened against the pound. That is the only reason that I can speculate but it is speculation.

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

Mr Speaker, consumer patterns continue to change, and as my colleague pointed out in last year's Budget address, an increasing number of visitors to southern Spain and Gibraltar now make their own private travel arrangements via the internet. As a result of this, Government continue not to attach significant importance to a decline in coach arrivals by minus 1.2 per cent at the end of 2007 in comparison to the previous year. This is more than balanced out by the increase in the amount of private tourist vehicles visiting Gibraltar and the increase in air and sea arrivals. It is important to analyse correctly how tourist patterns are changing and to accurately assess how they affect this market. This is a task done better by tourism professionals than by politicians. It is those working in the tourism industry, including the Gibraltar Tourist Board, who are better placed to understand the business of tourism and they are the ones who more successfully analyse the effect on the local market of changing tourist patterns. In this context, I would point out that the statistical analysis I am presenting was prepared by professionals in the tourism industry in Gibraltar and not by myself, and has been checked by the Government's Statistics Office. As another indication of success, visitor numbers to the Upper Rock have increased by 12.06 per cent to 814,561, up from the previous year of 726,883 and revenue has increased by 12.59 per cent to just over £3.4 million compared to £2.7 million the previous year. Hotel arrivals in 2007 totalled 63,691, an increase over 2006 which stood at 59,194. It is true that room occupancy and sleeper occupancy have fallen during this period, but before anybody is tempted to highlight this as a failure to attract more overnight visitors, the Government's track record since 1996 is worth comparing to what happened before we came into office. Total arrivals at hotels have risen by 38.03 per cent since 1996 yet fell by 30.6 per cent between 1988 and 1995. Room nights sold between 1996 and 2007 have risen by

53 per cent yet fell by 10.2 per cent between 1992 when records began and 1995. Hon Members should also note that room occupancy rates have increased significantly from 43.3 per cent in 1996 to 57.8 per cent in 2007. Mr Speaker, I could carry on but I think I have said enough to clearly demonstrate the success of the Government's policy since 1996.

I therefore take this opportunity to pay tribute to the effort and hard work of all members of the Gibraltar Tourist Board team, but in particular to my predecessor and colleague as Minister for Tourism, Joe Holliday, to whom undoubtedly goes political credit for this achievement. My learning curve on these matters is now almost vertical, yet in a short space of time I am already beginning to see the intricacies of the industry and the outstanding work that the GTB does for the Government and the local tourist industry, not only in Gibraltar but abroad. It is also important to note that hotels continue to report that their yields have risen. We must also not forget that due to Gibraltar's unprecedented success as a business centre, corporate business for the hotels, which is regarded globally as the most lucrative, is on the increase. It is understandable that hotels should prefer and will accept more of this type of business than inclusive tour business.

Mr Speaker, the Opposition Member last year in his speech also pointed out that the average length of stay has declined marginally. Indeed it has, but this again can be attributed to the success that the hotels are enjoying with corporate traffic where stays are shorter. The Government's tourism policy does focus on selling Gibraltar as a short break destination and it may be useful to take note that in the industry this means a three night stay. It is interesting to see that the average lengths of stay for 2007 stands at 3.1 nights. According to the local hotel industry, one event that did affect overnight visitor stays was the cancellation of flights from Manchester by Monarch Airlines in 2006. As the Government have now introduced a new financial model for the airport, which incidentally the Opposition criticised, Monarch Airlines have decided to restore this service. Little can be said, therefore, about the Government not wanting to help

encourage more overnight visitors to Gibraltar. In order to encourage more hotel beds to be made available to other market sectors such as the inclusive tour business, the Government encourages the hotel industry to continue the upgrading and updating of their facilities, and look forward to new hotels being built. It is in discussions with parties who wish to do so. The Gibraltar Tourist Board continues its partnership with the AA of the United Kingdom for the official grading of local hotels.

Mr Speaker, the GTB's marketing drive for this financial year will focus mainly on the consumer and on the power of the internet. Through the UK GTA, the United Kingdom Gibraltar Tourism Association, and through regular contact with the industry in Gibraltar, the Gibraltar Tourist Board is regularly advised and updated on all aspects of the requirements of the industry. Last year the GTB, going on this advice, explored new avenues for promoting Gibraltar and has used this experience well to consolidate a marketing budget that will continue to deliver the best possible selling platform for Gibraltar.

It is also usual at this Budget session for the Opposition to criticise the Government by highlighting that portion of the marketing budget that is spent on one aspect only of the Gibraltar Tourist Board's marketing campaign. I refer to the hospitality events of the GTB's exhibitions and roadshows. In particular those hosted by the Minister for Tourism. I would encourage the Opposition to take a more holistic, productive and realistic approach to their analysis of the GTB's marketing strategy. To try to dissect the Government's expenditure on marketing Gibraltar by highlighting how much is spent per journalist, per travel agent or per business partner on hospitality et cetera, is politically naïve. It is obvious that throughout the years the Opposition has been trying to create the false image that those involved in the industry, particularly Government Ministers, are constantly at some never ending party. This can only be described as a cheap tactic with which to try and muster some political brownie points through tangential arguments. I myself have now had first hand experience of one of GTB's PR



events that has included hospitality. I can assure this House that I have seen or heard nothing to indicate that anyone involved in the business of selling tourism, both in the public and private sector, feels that these PR events are unproductive, unnecessary expenditure or that they should be discontinued. The reality is that the GTB over the years has gained valuable experience about how PR and marketing events should be staged to make them successful. As an example, I would ask Members to picture a group of travel agents who are invited for the second or third year running to attend road shows by Gibraltar and, say, another destination, for example, Malta, and that these two events happen to clash on the same date and at the same time. Now, the truth is that some agents will remember and compare the levels of hospitality afforded to them by either tourist board the previous year, and that there is no doubt that some base the decision on which event to attend mainly on these criteria. Experience has shown that if the Gibraltar Tourist Board has provided less of a memorable experience for these agents than say Malta in the past, that these tour operators or these agents will not attend the Gibraltar event but will attend the Malta one instead. The inevitable result is that in these circumstances Gibraltar does not sell its product but Malta will sell theirs. I apologise if this appears to be a rather cynical view of human nature, but it is one taken by others not by me, I do not have enough experience of it already. But in the experience of the tourism professionals it is claimed to be an accurate analysis. So, the GTB's very successful road shows aimed at the travel trade will therefore continue in 2008 and 2009. Testimonials received by the exhibitors at these events have served as an impetus for the GTB to continue to provide these selling platforms for the local industry. This year road shows will be aimed at the specific catchment areas for the airlines serving Gibraltar from the UK, and will be expanded to include access to the consumer. The Gibraltar Tourist Board's return to the World Travel Market was well received by the industry, as was this year's participation in FITUR in Madrid. The GTB invested in enhanced facilities for exhibitors from Gibraltar, and these improvements will be repeated at these two trade fairs in 2008 and 2009. The Gibraltar Tourist Board will

also exhibit at the London Boat Show in 2009. The increased expenditure last year for these events is in respect of the new stands and enhanced facilities for the representatives of Gibraltar's tourism industry, to improve their marketing potential and to improve the collective image, including that of Gibraltar, that is presented at these events. So once again this year, the Gibraltar Tourist Board will be encouraging companies in Gibraltar's industry and some of its key partners from abroad, in particular the airlines and tour operators working with Gibraltar, to enter into joint marketing campaigns. Specific sums of money will be allocated to these joint marketing drives.

The UK will continue to be Gibraltar's main source market and with the start of flights from Manchester, more selling activity will be carried out in the northwest of the United Kingdom. Spain will continue to be a part of the GTB's marketing efforts. Last year with the advent of daily flights to Madrid, more resources were used to market Gibraltar in Spain. However, this year in the light of what is hoped is a temporary scale back of flights from Spain, a more conservative approach to marketing Gibraltar in Spain will be taken. The Government welcomes the keen interest that has been taken by SpanAir in appointing a general sales agent in Gibraltar, and this airline's reported intention to operate flights from Barcelona will be monitored closely. The Government continue to encourage airlines to provide more services from Spain to Gibraltar, albeit with realistic scheduled timings that would benefit the leisure and business markets.

Much has been achieved over the last eleven years to improve the tourism product, but specifically over the last 12 months, several projects have been completed on the Upper Rock which include: (1) infrastructure works for the proposed new toilet facilities within the Nature Reserve, and this has included the laying of a new sewage system from Princess Caroline's Battery to connect with existing sewer lines in the upper town area, the refurbishment of the existing sewer line from St Michael's Cave to Jews Gate and the provision of potable and brackish water from Poca Roca to Princess Caroline's Battery and then on to

the Moorish Caste; (2) the refurbishment of the Mediterranean Steps with the support of the Bonita Trust; (3) improvements to the lighting and electrical wiring in St Michael's Cave; (4) refurbishment of the Lime Kiln near Princess Caroline's Battery; (5) refurbishment of the Military Heritage Centre; (6) improvements to the sites within the Upper Rock, and other improvements to the product have included the refurbishment of the toilet facilities at the Gibraltar Coach Terminus and the refurbishment of the Waterport fountain. Other on-going projects include the removal of rocks and relaying of sand at Catalan Bay, along with the repair of access ramps and railing and the provision of new toilet facilities at the south end of the beach; (2) improvements to the entry point at Western Beach; (3) the total refurbishment of Camp Bay; (4) a new information counter and offices at the Gibraltar Coach Terminus; (5) the repair of the sea wall at Eastern Beach; (6) improvement to the Great Siege Tunnels; (7) the provision of ape proof litter bins within the Upper Rock; and (8) the improvement works to Charles V Wall with the support of the Bonita Trust.

This Government believes in the tourism industry and has since 1996, as I have shown, invested in an unprecedented manner particularly in human resources in providing a sound support base for the local industry. This Government's belief in tourism now makes this industry one of the largest generators of income for our economy. I look forward, along with the GTB and the local industry, to making 2008 an even more successful year for tourism.

I will conclude my contribution by touching on the urban renewal programme. Following from the success of King's and Orange Bastion, where we have restored and transformed our monuments into living parts of our community, our model for urban regeneration will be focused this year upon several other sites. Amongst these is Wellington Front which we all know has tremendous potential. Our vision is to create a linear walkway along the top of our City walls, a connection from King's Bastion. We will refurbish many of the vaults in this monument and provide a quality urban setting for all to enjoy. Major

infrastructure works will need to be carried out in this area and extensive waterproofing measures will be undertaken. Yet this will be an investment that protects our proud heritage and provides our families with a better environment. A continuation of the beautification of our City walls will also be realised in Orange Bastion, the area in Irish Town that was previously occupied by the Electrical Authority. This will be the final phase of the works to this section of our City walls and will see the creation of a landscaped outdoor urban space. Existing vaults will be treated and converted into studios and some eating facilities will be catered for. But our urban regeneration scheme will not only be restricted to these areas. One of our commitments has always been the renewal of the Upper Town area. Already we have several significant projects underway. The conversion of Calpe Married Quarters into terraced houses and the transformation of Flat Bastion Road barracks into apartments, to mention just two. The demolition of KG VI wing of the old St Bernard's Hospital is also planned. This is a major undertaking that will not only alter our Upper Town's image, but will also herald the transformation of this historic part of Gibraltar. Street beautification works will follow, together with the upgrading of the entire relevant infrastructure, a significant investment. Another connection from Casemates to the Upper Town will be via our Northern Defences project. This area commonly referred to as "The Jungle", overlooks Casemates Square. Such a site is steeped in history and once addressed will not only add value to Gibraltar's tourist products, but will become an experience within a unique setting for all of us to enjoy. We have other projects that will also have a positive impact in regenerating our urban environment, such as the refurbishment of the Main Guard in John Mackintosh Square and our new Law Courts. Two further examples of rescuing historical buildings and giving them new life.

Mr Speaker, I will conclude by paying tribute and by thanking those members of staff and the Heads of Departments and of the Gibraltar Tourist Board for which I have political responsibility. Without their dedication, loyalty and hard work the efforts of the political Government would remain fruitless. In

particular, I would like to publicly thank my personal staff within the Ministry for the Environment and Tourism, for their unqualified support and unfailing efforts at all times since I became the Minister.

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

Mr Speaker, as this is the first Budget since the General Election, it is important for us on the Opposition side of the Parliament to signal our respect for the decision of the people to return the Members opposite to Government. Theirs is the programme that prevailed in the final poll and, therefore, this Appropriation Bill required to implement that programme, comes to this House from the people and deserves to be respected with democratic respect. Having said that, returned to Opposition it remains our obligation to scrutinise and to hold to account with vigour and energy, to ensure that such appropriation as may be sought is applied beneficially. It is right, that in such a debate the Bill should be moved by an elected Chief Minister of the people of Gibraltar, although I do not favour the peoples' choice, and not by an appointed Financial and Development Secretary. That much was established by the Leader of the Opposition as far back as 1988, but last year we were already in this House without the presence of those appointed officials. This year, however, is the first time that we will debate and approve Estimates as a Parliament of 17 directly elected representatives of our people. In fact, whilst there is a gulf of difference between both sides of the House on the actual decolonising or modernising effect of the new Constitution, it is a matter of consensus across the floor that it is right that only the elected representatives of the people of Gibraltar should have a role to play in this Parliament. Today in this debate is as good a time to reflect on that as ever.

So I want to move on to the substance of my contribution to the debate on this Bill. First of all I want to look at the ability of Members to carry out an analysis of the figures provided to us. The Estimates of Revenue and Expenditure before the House

are provided by the end of April, just over a month ago. The reason for this is so that by the time we come to vote in these Estimates, we, in fact all Members of the House and in particular Opposition Members, will have had time to analyse the figures. Last year and again this year what we have had is the mover advising us from his initial contribution of a whole range of changes which have not been factored into these accounts. In practice therefore, the revenue and expenditure is about the same as last year's results but as we now know, this is not actually what is expected to happen. In other words, the book does not reflect what the speeches from the other side will result in. On the revenue side of the equation, whereas the electricity and GPMS increases have been included in the receipts of the two Authorities, the import duties on tobacco, petrol and diesel are not reflected, as the import duty figure is up only £500,000 to £43 million on last year in the numbers in the book. That is page 6 of the blue pages. The same thing happened last year when the estimates for the year also did not reflect the estimated increased revenue from increases in import duty, that eventually resulted in the figure being a £7.5 million increase on the published estimate. In fact, the position was also the same in 2006 when the mover told the House, in his initial address, that much of what he was going to tell the House was not reflected in the figures. What is the Government's estimate in fact, for the value of the 5p increase in tobacco duty and the 3p increase in petrol and the 2p increase in diesel duty? Although the book indicates that rise of only £500,000 in Head 2(1) of Revenue, will it actually be higher? Of course. Last year's similar increases, as I have said, produced increases of £7.5 million. So is the Government's estimate for total revenue under this Head more likely to be £50 million instead of £43 million? The normal way to produce estimates of this type for this type of debate, is to reflect the changes in revenue and expenditure which are consequent on the things to be announced by the Government. Hence the need to ensure the confidentiality of all of those of us who have access to the book, even though we may not know the detail of how increases in revenue are to be brought about. In fact, those listening at home and in the gallery may not know that we each receive a book, each of them is

numbered and each individual is therefore bound to confidentiality, and we each sign for our books to ensure that we do not release the figures that are provided by the Government. Well, for those reasons, any analysis of the numbers in this book must be seen in the light of the fact that the mover has not seen fit to reflect the numbers which result from their announcements in this House. That, obviously, blunts our ability to analyse before we hear the hon Gentlemen's speeches.

Secondly, I think it right that we should understand that the debate on this Bill is being held in the context of an election in which the Government has seen itself returned to office by the slimmest majority. For the first time, since 1988, a Government moves the Appropriation Bill with the support of less than 50 per cent of the electorate. That statistic does not deprive the administration of legal legitimacy, but it did prompt the hon mover himself to have indicated on the morning after the General Election, that perhaps it did call for more consensus and less confrontation. But little has been seen or heard since the dawn of 12<sup>th</sup> October last year, of that stillborn spirit of consensus. Indeed, as the numbers elected to this House have increased, instead of seeing backbenchers on the Government Benches, or a new spirit of consensus, all our people have been treated to has been increased spending on ministerial salaries and the same level of inefficiency and lack of delivery. So, despite my Gibraltarian pride at our Parliamentary composition of directly elected Members, one is torn by the financial waste evident in the addition of two more ministerial salaries to this Government. Indeed, in a perhaps Freudian slip, the Minister for the Environment let the cat out of the bag when he told us at Question Time that some matters were not for him but for central Government. Of course, we do not operate a devolved system of Government, despite some Members now Opposite having urged that devolved integration was the only way to decolonise, in one of the many previous political incarnations before their apparent Damascene conversion to the hon Member's creed. So what or where is central Government? Clearly, the allusion was an innocent reference to the centralisation of power in the present administration into the

hands of the hon mover. That evidences that really the addition of two further ministerial salaries is a real waste of what might colloquially be referred to as "pagas muertas" or "dead salaries", given that there is only one real policy decision maker on the benches opposite. Which brings me to the excellent quote from Mencken that democracy is the art and science of running the circus from the monkey cage. Well, rather like the apparent understanding of some Ministers opposite of the need to refer all matters requiring important decisions to the central, now to be expanded I understand, to the old Education Department monkey cage. Well, what better way to turn to my responsibilities in respect of the environment on which I shadow the hon and gallant gentleman with, dare I say it, devolved responsibility for the environment.

Mr Speaker, the importance of the protection of the environment is now accepted by politicians of all political complexions. What a pity then, that on the Government Benches there appears to be a will only to pay lip service to the principle of environmental protection. In the past month, as Mr Speaker is aware, Gibraltar has been made proud by this branch's hosting of the Commonwealth Parliamentary Association British Islands and Mediterranean Regional Conference. I should pause there to add my congratulations to Mr Speaker, the Clerk, both ably assisted by their spouses, the Usher and the Secretary of the Parliament for your endeavours in the organisation of that very successful event. It was only that hard work that made the Conference a resounding success. Also of importance and a source of pride for all of us who attended from these benches, and I am sure from the benches opposite, as part of the Gibraltar delegation was the very high, nigh excellent standard of the presentations made by the technical officers of the Department of the Environment and the other Gibraltar speakers. I have no doubt that I will be joined in that view by the Members opposite who attended as part of the Gibraltar delegation and they share in that praise. What a pity then, that there appears to be little political will to match the technical skill of these officers. If it is felt to be unfair by Members opposite that I should say that, I think it proper to analyse their record in

the past year so that they can see how it is that we believe that we are actually reaching quite a fair conclusion in that analysis. First of all, let us look literally, and I mean look, at the view from Jews Gate, the first stop on most rock tours of our Nature Reserve. Anyone who may wish to stand at the lookout point in that area will now, thanks to the Government's planning policies, see not the unimpeded view of the Strait of Gibraltar which we were all so used to enjoying from that site. Gone is the picture postcard view of the North African coast. Instead the entrance to our Nature Reserve is now graced with the addition of the view of guess what? That GSD speciality. A luxury development – Clifftop House – a block of flats for those who can afford prices of up to £1.25 million for a three bedroomed flat, advertised as having, wait for it, unimpeded views of the Strait. Well, I suppose the people rich enough to live in the flats do have that view. What a pity that the environment of the southern tip of our peninsula now suffers that blight. Whilst Ministers have presided over the speedy growth of a number of developments for the rich, they have been as dramatically slow in the delivery of measures designed to help preserve the environment, as they have been in the development of property for the less well off. Look again at the snail like pace in which the Government has approached the deployment of recycling bins in Gibraltar. In all my time in this House since 2003, I have been chasing successive Ministers for the Environment on this issue. Always the answer was “soon”, “in this financial year” et cetera. Well, our reaction on the Opposition side to the deployment finally of recycling bins has been much the same as that of all the environmental groups and of the community at large. Namely, a sigh of, at last, when the bins have finally appeared. I, like many citizens, will look forward to making use of that facility. But again, the Government does appear to have been dragged kicking and screaming to do something that is positive for the environment. Look again, for example, at the campaign to promote the same said recycling bins. Not content with advertising in daily publications like the Chronicle and the Panorama, the Government provided for an insert in those Gibraltar dailies, a greater use of paper than perhaps was necessary. To add insult to injury, the leaflet advertising

recycling does not even appear to have been printed on recycled paper. So although we have had limited recycling bins provided, the Government has not even started the process of leading by example and becoming a net recycler itself, as we were committed to do if we had won Government. For the purposes of the avoidance of doubt, I am not talking about the paper on which the newspapers in which the adverts appeared is printed. I am talking about the leaflet itself promoted by the Government, which the Minister is holding up and I was hoping to hold up, but it seems to have gone AWOL, which was a glossy inserted into the Chronicle and into the Panorama. Well, it is in that context and against that factual background, that the Government is hosting its World Environment Awareness Fair tomorrow. I have that leaflet although I do not need it. On Thursday the Department of the Environment is inviting all businesses, retailers, traders, NGO's and Agencies, with a green message to participate in the Trade Fair, the theme of which as the hon gentleman has just told us, is Energy Efficiency. The slogan adopted for World Environment Day this year is CO<sub>2</sub> Kick the Habit towards a Low Carbon Economy. Well, how appropriate in these days of peaking oil prices that the UN should have adopted so laudable a theme. Yet how inappropriate that our Government should align itself with such laudable principles, or to pretend to do so. Why? Because in the case of our Government, its head, the hon mover, has shown himself to be foolhardy in the pursuit of energy inefficiency by his recent decision to employ public funds in the purchase of his new official car. As I have already referred to this House, the polluting effect of that vehicle with that engine is massive. Although the hon mover has already indicated that it was not an issue for him in determining which vehicle to purchase, despite the commitments that they had acquired as a Government under their own Environmental Charter. So, how can we regard the Government's apparent adherence to the principle of energy efficiency as anything other than “do as I say but not as the Chief Minister does”. Hence, I feel compelled to renew my call from last year, that the Government should commit itself to ensuring that any new power station it may commission should be designed to utilise best available

technology at the time when it is designed. Whether it is an energy from waste plant, which is an incinerator by another name, or such other method of generation as we may finally determine is appropriate. I have no confidence that the Government can be entrusted to do this. Nor do we have any confidence, on the Opposition side, that the Government will be able to meet the timetable for completion of the new generating facility that the hon mover himself had set out. In pre-Election statements, the hon mover has stated that the new generating station will be ready within two years. Well, the election is now over and I assume we will have a new and more realistic timetable for the completion of the new generating facility. Whether the method of generation is best available technology or how much will be provided from renewable sources remains to be seen. I can but implore Government Ministers to ensure that they prevail over their central government's voracious appetite for gas guzzling. The effect of commissioning now a generating station that falls below today's best available technology, will not just be that we will not pull our weight in reducing worldwide carbon emissions. Of course, that is overwhelmingly important, but there are also negative local effects to be suffered from employing anything other than the best available technology. I say "local", as in immediate area of the facility. Look at the effect of climate change on all of us. The Minister has already referred to the new DPC ruling anticipating a half metre rise in sea levels. What will be the effect on Waterport Terraces, on the new estate for rental that is to be developed, on all existing estates on reclaimed land? Look at the need now to provide another monitoring station in the south district, where particulate levels detected have turned out to be higher than expected or recommended. In that south district area, houses as hon Members will be aware, two generating stations that do not presently comply with what is the best available technology. So clearly, choosing a cheaper option today obviously will cost us more tomorrow, in cash and in pollution. Pollution is still the environmental subject exercising constituents in the south district the most. In particular, there continues to be a major problem of pollution arising from the use of sprays at Cammell Laird. Well,

previously we had been told that these problems would be resolved by the change of that operation from a yard to one of super yacht repair. Nothing has been heard of this change since the election, but we on the Opposition continue to receive the complaints of constituents in the area, whose cars suffer the effects of the sprays and who wonder, as we do, what the effect of their breathing in such particulate matter may be. What is Government going to do about this with the almost £225 million they are seeking to appropriate?

Not that some primates will live long enough to suffer the effects of pollution on their organs. If the plan of the hon Member for devolved matters of the environment prevails, he will be responsible for ordering the execution of a number of our apes. On a recent discussion on television I think we all agreed, that killing our apes should not be done lightly. We believe, on this side of the House, that it should not be done at all. The Minister said that this proposed plan, and he has repeated it today, was the last resort. Well, we have heard nothing of the progress of that killing spree. It would appear, in fact, thank goodness, that there may have been a change of plan and another alternative found to the killing. Well, if that is the case clearly the killings originally proposed were not the last resort as the Minister told this House. Clearly, there are more things in heaven and earth than are thought of in this Minister's philosophy. But that does not surprise us on this side of the House, as much as it will surprise those who might have naively have believed that the Government's stated commitment to its own environmental charter. How can the examples I have given of this Government's stewardship of the Ministry of the Environment, and their approach to the environment generally, sit comfortably with the principles of the Charter that states Government's commitment to use natural resources wisely and to control pollution on the principle that the polluter pays. To aim for solutions which benefit both the environment and developments and to safeguard and restore native species. How do those principles sit with shooting the apes and buying the Jaguar? Clearly, there is no real commitment on the Government Benches to adhere to the principles of their own Charter. So in

the context of an increasingly polluting Government, we welcome the adoption by the Government itself of the policy we have maintained since 2003, to carry out an epidemiological study. That study is long overdue and the sooner we see it commence and can be told when to expect to see the results, the better, although I accept, as the hon gentleman said, that results will be a long time in coming. I cannot see from the estimates where the spending for that project is to be provided from, given that the increases provided for in respect of environmental monitoring, which are under Head 4A, Subhead 3(3)(b)(i) and (d), Air Quality Monitoring, are minor and I do not think provide for this. Perhaps it is that the Government had nothing positive to announce last week and decided to finally announce its overdue adherence to this long standing opposition policy. Well, however its announcement came about, we will look forward to seeing the project commence. Referring back to the CPA Conference on the Environment, it was refreshing to see that much more pro-active approach in other Commonwealth Parliaments is being taken to environmental progress and renewable energy. The Welsh Parliament building generates from renewable sources up to 60 per cent of its own energy needs. Certainly something for us to ponder and build on.

That brings me to areas relating to the workings of this House that in my view need to be revisited beyond its fabric. This place is the heart of our democracy. I have long been an advocate of letting the light of video transmissions shine on our proceedings. Although I doubt whether anyone would have the stomach to sit through all of our speeches on this Bill, there is certainly a lot to be said about the cameras being allowed in to record and transmit the whole thing as is presently done by radio. That would also enable editors to have video available of newsworthy flashes to transmit during news programmes. Perhaps some of those entertaining Points of Order that we sometimes enjoy.

**HON CHIEF MINISTER:**

Or non Points of Order.

**HON F R PICARDO:**

Or points which Mr Speaker ultimately rules might not have been properly brought, whichever side of the House it is that originates them.

As I have said before, these days if it is worth watching it is live on some TV channel somewhere. What are we as a Parliament saying ourselves about our proceedings by not even considering the possibility, in conjunction with the public service broadcaster, of transmitting the proceedings of this House live. Are Members not bored of seeing the same video of this place and themselves being played over and over again when our proceedings are reported? It is time to bite the bullet on this issue. As with the position on broadcasting, the facilities available to this House need to be reviewed. We have no press room, leading to a long standing boycott by radio journalists of the less than adequate facilities provided for them here. Now that most Members are computer literate, why do we not have wireless internet facilities available for all Members and journalists whilst we are here, so that we can make better use of laptops and of our time whilst in the House? Hansard benefits so greatly from the hard work of the Secretary to the Clerk of the Parliament. But surely we can invest some of the £225 million we are thinking of spending this year, on a faster voice recognition system. In fact, we might actually have fewer arguments and save time as a result. In the Scottish Parliament and in the Welsh Parliament they now have a system of immediate Hansard available to them on a display in front of speakers and Members. There is the spectre of the hon mover's stated preference to move Parliament away from this location to the area of the Garrison Library. Nothing has been heard of that for some time. If that is a long-term plan, should we not be doing something before then about our Parliamentary workplace? And what of the manner in which we organise our

business generally. I am delighted, that the possibility of written questions being asked has now been formally adopted by Mr Speaker's ruling on the written questions that I submitted for this session of Question Time. But why do we not also introduce a system to allow Members to know more adequately what the timetable to be followed by the House will be? That would be for the benefit of every Member, regardless of the side of the House on which they sit. Indeed, it would also be for the benefit of members of the public, generally, and in particular to members of the media who are charged with covering the proceedings of this House. I think the fact that that has not been the practice previously, whether from 1996 to now, 1996 to 1988, 1988 to 1972, 1972 to 1969 or earlier, should not be a reason not to address the point. This is a useful moment for me to turn my attention to my responsibilities for the media.

I will start with the broadcast media. The Gibraltar Broadcasting Corporation is even now without a general manager. It has been without a general manager since before the election. In fact, it has been without a general manager through the first general election since the licence fee was abolished. Now, we agreed on the abolition of the licence fee, it was a policy shared by both sides of the House. We think it originated on this side but it was implemented by that side. It is wholly democratically unsatisfactory for there to have been no general manager during the period of the first General Election, when the Corporation became entirely beholden to the political administration for a handout of funding. The professionals in the broadcast media conducted themselves during the course of the election with exquisite professionalism. There was no question of that, but that does not in any way take away from the fact that these circumstances in which the Corporation has been left, by the Chief Minister's decision to carry out an as yet un-finalised review are far from ideal. Although the hon mover has himself already said that he does not agree with my view, during the course of Question Time, the union representing the workforce has already taken him up on the issue and urged that the review be completed as soon as possible, as a result of the debate that we had during the last Question Time. On the financials, I see

that the estimated expenditure on the Corporation is increasing only by £21,000 over the forecast outturn for the year, taking the estimated expenditure from £1.73 million to £1.751 million. I am assuming that this does not include the works required to move to digital, and that this will be dealt with by the provision of the £300,000 provided for in the Improvement and Development Fund, Head 101 Departmental 1(d) Gibraltar Broadcasting Corporation. Although from answers to questions last time, I believe that may include amounts for the updating of the transmission infrastructure generally. Because of the order of speeches that we have agreed across the floor of the House, I believe that the hon Member with responsibility for broadcasting will be speaking after me, so I make these points without the benefit of having heard his speech.

The position in the print media is more diverse, given that none in that sector are overtly, at least, publicly funded. Certainly, it would appear that some newspapers in the private sector are more equal than others. See the juxtaposition of the position in which Vox finds itself, marginalised and denied Government advertising, to the situation of 7 Days, favoured and in receipt of massive amounts of Government advertising. The editorially compliant 7 Days has received the sum of almost £63,000 in 19 months in respect of publicly funded advertising. That works out roughly to £3,300 to £3,500 per month. Vox, ironically, since the day its editorial policy turned against the Government, has received nothing, not a sausage. Of course, we are told that we must believe that the situation arose because of arrears of debts to Government on rent, social security and PAYE. Well I do think that the Chief Minister may have convinced himself of that. What a coincidence that the arrears did not matter when the editorial policy was pro GSD and suddenly, time had run out to negotiate and it was central to the issue of advertising be made available, when the editorial policy changed to anti GSD. Well, he can tell me and the electorate as often as he likes but it just does not wash. It smacks of trying to use the Government purse to advance the administration's public relations. He will not convince with his transparent excuses. He may be a Silk, but on this he is nowhere near smooth enough to pull the wool over



people's eyes. People are taking the view that if it smells like editorial favouritism, if it sounds like editorial favouritism and it looks like editorial favouritism, it very likely is no more and no less than editorial favouritism.

So, to the Gibraltar Chronicle. It was announced that there was a Government review of matters relating to that newspaper. The only thing we have heard since then is that the editor of the Gibraltar Chronicle has withdrawn from that review. Nothing has been heard since. Perhaps in reply the Chief Minister can tell us more of what that review is determining and when it may reach conclusions. I also understand that £450,000 has been contributed in some way to the Chronicle, I think in depletion of arrears. But that the property that was to be conveyed in consideration of that sum, one of the old Garrison properties as I understand it, has not yet been transferred. Perhaps we could also be told a little more about that. Finally, it would not be fair to leave this area of responsibility without referring to the Government's failure to advertise in the New People or to recognise the journalistic staff of the New People. The hon mover tells us every year that in relation to this newspaper, his administration only pursued the position as it was before them. As the editor of that newspaper, Mr Golt, has highlighted before and recently to the Foreign Affairs Committee of the House of Commons, once he took over the newspaper after 1996 the nature of that newspaper changed. In fact, Mr Golt has found himself ostracised by the Governments completely. Not invited to press conferences as editor of the New People, and pushed to have to take up other employment. What a pity that a journalistic talent like Mr Golt has found himself having to look outside Gibraltar to carry on his profession. In the depths of his conscience, however deep that may be, the hon mover knows that he is wrong in his administration's treatment of Mr Golt and his newspaper. Certainly, the hon mover should be more alive to the concept that he should do unto others as he would have done unto himself. Clive Golt deserved better. In fact, some of those sitting next to him now, used to vehemently agree.

I turn now to my responsibilities for financial services. There is now universal impatience with the position being adopted by the hon mover as to the adoption of a new rate of corporate tax. Of course, everyone in the financial services industry understands that we are being caught in the vice of the end of the period of grandfathering for exempt companies in 2010, and the failure of the Court of Justice to rule in the Government's case against the Commission. That is not of itself the Government's fault, although I do recall an individual who now sits alongside him, having previously said that the Government's position on tax reform was belligerent and misconceived. Perhaps the hon gentleman might like to look at the opinions in the Gibraltar Chronicle on 15<sup>th</sup> and 9<sup>th</sup> January 2002. How true, now that they seem so happy together, that time heals all rifts.

*[Interruption]*

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

Be that as it may, could we at least not have been told this year whether the rate will be 10 per cent or 12 per cent? This year we have been told that the hon mover's preference is for 10 per cent but there is no certainty in what will occur. Absent and unfavourable decision by the Court which none of us expects, the financial services industry is clamouring for clarity on the new corporate tax system that will be implemented if we succeed in the case against the Commission. Yet we have no clarity at all from the hon gentleman. I accept, unhesitatingly, that he might not want to implement a new system until after the decision of the Court, that is his policy, but we should at least have knowledge of what the new system will provide, as the old proposed system is now abandoned for reasons we have debated before and not agreed on. Namely, that the hon Gentleman did not listen to the experts and went his own way. Perhaps, those are the problems that arise from the reflections in another topical magazine interview this month, which he may not have seen yet. One from an ex Deputy Chief Minister, Mr Montegriffo, who reflects on the hon Gentleman's presidential

style and how that affected his decision not to stand for election with him again. The magazine is called Insight, and it is indeed an interesting insight that is given to the workings, what I think is colloquially referred to as cabinet government to the hon Gentleman. Anyway, the problem is that practitioners in the financial services industry have been left with no story to tell about our corporate tax product. Now, I know that the hon gentleman does not rate me as a finance centre professional, he told me so as much last year in his reply. I am not surprised. I do not rate his understanding of the sector either. But one thing the hon Member must accept, Gibraltar has now no serious corporate product to sell. He can rubbish my contribution as much as he wants in reply, and I have no doubt that he will, but he cannot get away from the fact that under his stewardship we have not advanced the position at all, and that if that failure to advance is out of our collective hands, he has not even provided clarity on what he will do when the power to advance is restored to us. That is the abiding chorus coming from the finance centre as a whole. The system of tax rulings is not satisfactory in the long-term and was not intended to be in place for as long as it has been. In my experience, many practitioners have been left to sell structures with corporate entities at the top which are not based in Gibraltar. So that the top corporate vehicle is based in the BVI or elsewhere. When it is possible to use a Gibraltar corporation structure, often we may lose the business to one of the Channel Islands because of the inability to whitewash financial assistance, given by a company in the purchase of its own shares. Again, this is something some practitioners have been pressing for some time. I certainly have been raising the matter in this House for almost all of the five years that I have been here. Initially, the Government's position was that it intended to do nothing. The latest position I recall is that they are carrying out one of those ubiquitous reviews. In fact, as the hon gentleman may know, the UK has moved completely to the abolition of the rule against financial assistance so that it does not even require the whitewash provisions any more. Well, until the review produces a result, we shall continue to lose precious business to other jurisdictions that are more agile in adapting their legislation to the modern practice. Not just in relation to

whitewash but generally. That is not just my view, I assure him, even the usually compliant Chamber has called for clarity on the corporate tax issue. The Federation of Small Businesses has referred to the hon mover's stewardship of the Ministry for Financial Services, as lacking in certainty and leadership. I can give him a copy of that article as well if he likes. I can but agree and although they probably dare not tell him to his face, the majority of the practitioners in the finance centre feel the same way and express that view repeatedly behind his back. Indeed, he will be surprised to hear the names of those who vilify him on this issue. Anyway, the financial services industry is not just about the provision of services to outsiders from Gibraltar using Gibraltar companies. There are other facets to the sector. Those who specialise in the sales of life insurance and endowment products are finding it much harder to ply their trade. Whilst there have been problems with endowments in the past, new products which provide real guarantees of repayment are now available even though slightly more expensive. But with the alternative tax system, which ignores allowances and now with the abolition of tax relief on mortgage interest over a specific amount, these products become less and less attractive. Indeed, the hon mover's tax structures appear to be based on making it less attractive for Gibraltarians to continue to live in Gibraltar. Also as a result, using those life products to promote savings is impossible. That in effect means that people are more likely to spend surplus cash as there is no fiscal incentive to divert the money to tax efficient savings, because savings are not tax efficient any more. As all of Europe adopts policies to promote that citizens should save for their longer old age, in Gibraltar the hon gentleman promotes policies that are designed to do the opposite. Not only that, as he promotes spending over saving we are in effect promoting a society where things matter more than people. The very opposite of the quote referred to us by the hon Member for Education, and that was the mantra of the Hon Dr Linares whilst he was in this House. The effects of this change in approach is not easy to see immediately, but as people get older without cashing in life insurances or endowments, we will start to see the effects of a tax structure designed to remove the incentive to save. Also, as we move

into a time of what is colloquially now referred to as "credit crunch", it is frankly the wrong policy to take away mortgage interest tax relief, which is an encouragement to purchase property. This is not an issue that will only affect the rich. Ordinary Gibraltarians who bought when home ownership schemes started in 1988, may have been able to sell well from one of the co-ownership schemes and buy homes now worth more than the £300,000 threshold. Although this change will not affect their relief, it will be harder for them to shift their properties on now as purchasers will know that they will not be able to deduct mortgage interest against tax on these purchases. Again, the wrong policy at the wrong time. I have confidence, however, that there may be more than one way around the proposal already. But we shall have to wait and see the letter of that legislation when it comes, and it may not come soon, we are getting used in this House to seeing the legislation to put in place Budget measures coming sometimes nine or twelve months after the measures have been announced. Only last week we were implementing measures which related to the Budget the year before. Certainly, there is nothing in this Budget for purchasers of property at Waterport Terraces, who are finding that they may suffer a very localised effect of the internationally ubiquitous credit crunch. Already we have heard the concerns of some who are finding that the original offers of lending which were made to them by financial institutions, are now being modified as banks and building societies change their lending criteria to adapt to the changing realities of the banking world today. Again, as my colleague Charles Bruzon has already highlighted, the delay in the completion of properties by the Government has brought some purchasers to the situation. Although I accept that the Government is not responsible for the global credit crunch, it is certainly responsible for the delays in the completion and release of these properties.

Mr Speaker, I move now on to the issue of industrial relations. I do not envy the Hon Mr Montiel in his role, in adapting from being a trade union leader to being the Minister responsible for industrial relations. Certainly, even in the past few months since the election, we have already seen industrial unrest arising from

unnecessary needling of Government employees. In two instances, the Minister responsible has been the Hon Mrs Del Agua, in relation to ambulance men and the City Fire Brigade, and the Hon Mr Netto, in relation to Social Services Agency. I pause to record that the Hon Mr Montiel and I have had occasion to work together very fruitfully in the past, and I hope that despite the fact that I shadow him in this House, our work will continue to be as cordial together as it has been when we were working on the same side. Whether in confronting ambulance drivers or now in the moves which have affected the City Fire Brigade, it is discernable that the workforce is as much aggrieved at the things that they are being asked to accept, as at the manner in which they are required to comply with edicts from above. We may agree or disagree about a measure which the Government as an employer may wish to implement, but if the mantra of consultation, so often evident in the speeches and interviews of Ministers, is to really mean something, then the manner of implementation of decisions is as much of an issue. It is a matter of fact that the numbers of Ministers opposite include two ex District Officers of the Transport and General Workers Union. The effect of that on the political philosophy of the party opposite is a matter of dispute. I should have said two high ranking officers of the Transport and General. Well, in my view there is a responsibility on them to do what they can to ensure that the respect that they sought for workers when they donned the hat as their representatives, should be paramount in their Government's dealings with workers now. From his position at the Ministry of Employment, the Hon Mr Montiel is unlikely to come across many issues of substantive dispute with Government employees. But already in the course of this Parliament, Mr Netto was responsible for a lock out of employees at the Social Services Agency. I trust, at least, that the decision to lock out those employees by the Hon Member was taken with a heavy heart. Although having seen him earlier today wielding the knife to dig into a worker who had had to fight for years to have this Government accept that she was unfairly dismissed, I doubt that the plight of workers exercise his mind much any more. Perhaps he is too busy with his philosophy course works to worry about workers. Or maybe it is that the

ministerial salary blunts the trade unionist conscience. Anyway, how appropriate that the Minister for Culture, referred us to the staging soon of the play *The Tempest*. In the third scene of the third act of that play, the grotesque spirits perform a show in which they produce a banquet and gesture to the tired and hungry to eat it, to the accompaniment of marvellous sweet music. But there is, we are told by the commentators, some trickery in the air. What is being seen is not the real truth. This is achieved by the excellent dumb discourse, Shakespeare said, of the spirits. I can see so many parallels between that feast and this Budget. No banquet at all and so much of it washed down the throats of our fellow citizens with the excellent dumb discourse of Members opposite. As the troop that will perform *The Tempest* will perform it for schoolchildren, perhaps soon the next generation will not be duped for one moment.

Let us look at the reality. This is a Budget that does little for the average citizen. What is being given in tax cuts is being taken away in depleted allowances. Although the mover talks about a Budget to ameliorate the effect of international oil price increases, which have doubled the cost of a tank of petrol in one year, the gentleman contradicts himself by the addition of a further almost 5 per cent on the importation of unleaded and diesel. So much for ameliorating the cost of increasing oil prices. Before I conclude, I should also add my thanks on behalf of the people that I represent, to those public servants in the Ministries which I shadow for their work in the running of the public administration, as they know and Ministers hate to be reminded, all our criticisms are levelled at the management of the administration by the members of the party opposite and not at them. I will pause to allow the laughter from the benches opposite to swan across the airwaves. To the comment "eso no te lo crees ni tu" which has been made from what I understand is now known as a sedentary position, by the Minister for the Environment, he should reflect on the fact that I praised his technical officers to a very high degree today in respect of their involvement in the Commonwealth Parliamentary Association Conference.

So, it is our view that the unfortunate pattern of the past 12 years appears set to continue. Whilst we may not disagree with everything that the Ministers embark upon, too often the time they take to do it lets them and the community down. Look at the Hon Mr Netto's speech on the environment last year. Then he was talking about the refuse holding facilities programme, ensuring that there were going to be new facilities in the area of Tankerville and the junction of Flat Bastion Road by this year. Nothing has yet been done. Now we are told today that there is going to be a review of all of those issues. Look, the reference to the energy efficiency in buildings Directive, we were told by the Minister that work had begun on the transposition. We are told by the Minister this year that work continues. Does it really take a year to transpose a Directive? It is the tardiness in the completion of policy initiatives and in decision making that is the trademark of the past 12 years of the hon Members' administration. I say that with apologies to those who are new on those benches. But then again, what should we expect with one man having to make decisions for ten? From the implementation of recycling to the delivery of housing, people are let down by the tardiness of the Ministers. Suffering from inertia, is the most generous description of the administration that I can think of. John F Kennedy, now 55 years dead, said that we must use time as a tool and not as a couch. Well, if he were in this Parliament today, he would urge the Ministers to get off their couches. Not so unfair, given the hon gentleman himself refers to this Parliamentary session as the one in which he will deliver many of the things he promised the electorate, and some of those appear in his manifesto from as far back as 1996, 12 years ago. The people may have re-elected him but despite that, at each election the majority has been eroded, until almost, almost disappearing in October of last year. Whether or not we agree the purpose of the expenditure proposed, the manner or speed of implementation of the policies, Gibraltar cannot be without an appropriation and as such, we will be supporting the Bill. With the caveat that our support for the Bill should not be interpreted as suggesting that we will support any Bill that may come to amend the Savings Bank Act, despite the numbers in the book being predicated on that. With that,

Ministers will be pleased to see that I will now return to my position on the Opposition couch.

## **ADJOURNMENT**

### **HON CHIEF MINISTER:**

I have the honour to move that this House do now adjourn to Thursday 5<sup>th</sup> June 2008 at 9.30 a.m.

Question put.                      Agreed to.

The adjournment of the House was taken at 6.15 p.m. on Wednesday 4<sup>th</sup> June 2008.

### **THURSDAY 5TH JUNE 2008**

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 Enterprise, Development,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism  
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

### **THE APPROPRIATION ACT 2008 (Continued)**

#### **HON J J HOLLIDAY:**

Mr Speaker, my ministerial responsibilities cover enterprise and development, technology, communications, which includes the Post Office, the Gibraltar Regulatory Authority, the Gibraltar Broadcasting Corporation, the Philatelic Bureau, Transport, the Port and Maritime Administration and utilities. However, before I start to consider each of these areas of responsibility in turn, I would like to record my satisfaction of the very healthy state of our economy and the various budget measures as announced on Tuesday by the Chief Minister.

The state of Gibraltar's economy is strong and buoyant and grew at the rate of 12.7 per cent in 2006/2007. This sentiment is not just a statement made by the Government in isolation. In 2007, the Chamber of Commerce and the Gibraltar Federation of Small Businesses made similar comments to their respective members. This not only reassures the Government that our management of the economy is sound, but also sends a clear signal to potential investors that Gibraltar continues to be a first rate jurisdiction for business and investment. The Invest Gibraltar office continues to be the front line organisation acting as a bridge between the Government and the private sector for day to day matters. I am pleased to inform the House that there is a good working relationship with the business community in Gibraltar. However, Government is aware that there are certain businesses within the wholesale and retail sectors that are going through difficult times. I therefore welcome the Chief Minister's announcement that the Government will engage in dialogue with the Chamber of Commerce to see what the Government might be able to do in this regard. In 2007, a total of 71 start up companies were assisted by the Invest Gibraltar office in their endeavours to commence trading in Gibraltar. So far a further 31 have been assisted this year.

The EU Secretariat continues to do good work in assisting and administering both the public and private sector with EU funded projects. The 2000/2006 EU funding programme will end on 30 June 2008 in respect of consideration of projects. The new 2007/2013 programme will come into operation on 1st July 2008. Gibraltar participated in a total of 191 EU co-funded projects under the 2000/2006 programme. There have been 136 projects under the Objective 2 ERDF programme, 44 under the Objective 3 ESF programme, 6 under the Gibraltar/Morocco Interreg IIIA programme and 5 under the Interreg IIIB South West Europe programme. The largest number of projects, 114, have been to assist small and medium sized enterprises, either to start up or expand their business activities. Under the 2000/2006 programme, the following investments have been made by the private sector which totalled just under £2.5 million, the EU just over £8.5 million, the Government of Gibraltar just

over £11 million. The programmes have helped to further the EU Lisbon and Gothenburg agendas, which promote the creation of sustainable employment, which is also a priority for the Government. The 2007/2013 programme will officially launch on 5th March 2008, with a Director DG Regio, Mr Jose Palma Andres, coming to Gibraltar especially to launch the event. Due to the recent enlargement of the EU, a consequence suffered by all Member States has been the significant reduction in the allocation of the new programming period. Some Member States have had to suffer a 50 per cent reduction. However, Gibraltar has also been affected but only having a reduction of 30.78 per cent. The allocation of EU funds in the new programme for Gibraltar is as follows. The ERDF programme is valued at Euros 5.8 million; the ESF at Euros 3.3 million; the Interreg IVB which is South West Europe 211,000 Euros; and Interreg IVB Mediterranean 211,000 Euros. These funds, together with Government's contribution and 1.5 million Euros that is envisaged from the private sector contribution, will help the total value of the EU programme to approximately 19 million Euros or £16 million at the current euro rate. The aims of the new programmes are to diversify the economy, encourage enterprise, support sustainable development, protect the environment and promote a knowledge base society in line with Government's policy priorities.

Gibraltar continues to ride on a wave of investor confidence against challenging global trends. Progress has been good in projects like Ocean Village, Euro Plaza, Little Genoa, Tradewinds, the Anchorage, King's Wharf and the Island at Queensway Quay. In fact, some of these projects are complete or almost complete. Other projects like the Midtown development and the East Side project will commence during this financial year.

Government continues to attach great importance to the planning process. The Development and Planning Commission continues to meet very regularly due to the ever-increasing number of building applications. I am glad that the public continues to participate in the planning process by commenting

on applications. The Government welcomes and encourages this process of consultation. In fact, during the next 12 months we will be reforming the planning process in line with our manifesto commitment, where major developments will be considered by the Development and Planning Commission but it will be the Development and Planning Commission that will need to issue a public statement, in each case notifying its decision and the reasons thereof. Additionally, all major developments above a certain size or of exceptional impact or significance will, in addition to the Development and Planning Commission approval, require the approval of Parliament.

This leads me to the new Development Plan. The consultation draft Gibraltar Development Plan was exhibited for public inspection for a period of two months from 16th August to 16th October 2007. Some 1,930 people visited the exhibition at Casemates while almost 1,900 hits were recorded on the exhibition website. The Plan was also distributed to various Government Departments and Agencies and other interested parties for their comments. A total of 171 members of the public submitted comments. This resulted in some 304 individual representations, some objectors having made more than one representation. The majority of these constituted objections, although there were some that were constructive comments or suggestions. Representations and comments were also received from some of these organisations directly consulted. The Development and Planning Commission has now considered all the representations received and, where appropriate, has proposed changes in response to individual representation. In cases where changes were being proposed as a result of a representation, the Commission has notified the person and in some cases the representation has now been conditionally withdrawn. The Commission has recently notified everybody who has not withdrawn their representation of the date of the Commission meeting at which all such representations will again be considered. A small number of people have accepted the invitation to present their comments to the Commission in person. Arrangements are currently being put in place to hold this meeting later this month. Once this

meeting has taken place and everyone notified of the outcome, the next stage will be to exhibit the changes that are being proposed to the Draft Plan. It is anticipated that this will take place during the summer, after which the Commission will need to submit the final Draft Plan, together with proposed changes, to the Chief Minister with a view to having the Plan finally approved as statutorily required.

Mr Speaker, I would now like to comment on some Government projects that are at various stages of development. The first one is the new air terminal building and air terminal and frontier access road. The new air terminal building is the flagship project for the Government. The building will have the characteristics of an international airport but contained to the size of a regional terminal. The terminal will have two floors and will have associated airside and landside facilities, including a new aircraft apron, car parking facilities, duty free shopping, restaurants and bars. The Government anticipate that the new air terminal will be operational by early 2010. The tenders for the design and construction of the building are currently being evaluated by professionals and an announcement in respect of the award will be made later this month, for construction to commence in September. Tenders for the new tunnel and frontier access road are currently being evaluated by professionals as well. It is expected that the tender will be awarded in the summer, with works to commence before the end of this year.

The renovation and refurbishment of the Retrenchment Block at Lathbury Barracks 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 expressed their interest to Government in being considered for premises following the advertisement that was recently published. The refurbishment of the building provides for a maximum of 31 for club use. The completion date for this project is January 2009.

The current trend in the cruise industry is to build larger ships that will satisfy ever increasing passenger demands. In order to

accommodate these larger ships, Government will extend the current cruise terminal, thus providing adequate facilities for cruise ships for the future. The additional space required will alleviate the congestion of passengers when more than one cruise ship is docked alongside the Western Arm. That is, approximately 873 square metres of additional floor space will need to be created to add to the 850 square metres of existing space, thus doubling the capacity. The extension to the cruise terminal building will have the same characteristics of the current terminal building. The works will commence after the current cruise season finishes in early 2009.

With regards to technology, I have responsibility for the Government's Information, Technology and Logistics Department. There has been significant progress in the last financial year. Government's internal network, intranet, has been extended further and this will continue with the integration of other Government departments this year. The Government is fully committed to the development of a system of e-government that will allow businesses and individuals to transact with Government departments electronically. Our main concern is that all traffic of data and information be carried out securely. The Government's Information Technology and Logistics Department will commence work on this project during this year.

I will now turn to communications. In this regard I have responsibility for certain aspects of the Gibraltar Regulatory Authority, for the Royal Gibraltar Post Office and by extension, the Philatelic Bureau and also the Gibraltar Broadcasting Corporation. 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 international coordination of satellite networks and licensing, and electronic communications which includes radio communications and licensing to the radio spectrum, for which the Minister for Communications has responsibility. The significant changes introduced by the commencement of the Communications Act 2007 has seen an increase in the number of providers of electronic communications services and networks. There are

currently eight companies operating under this regime, providing a variety of fixed and mobile networks and services. There are two companies preparing to roll out networks to provide mobile services in and from Gibraltar and these are expected to commence operation during the course of this year. There continues to be interest from several companies, which provide services and networks in other countries, to establish facilities in Gibraltar. As I reported to Parliament last year, the Communications Act requires the GRA to carry out a series of market analyses. The first phase of these reviews was held and the result published in the GRA's website, including comments submitted by the European Commission. The next phase in this will be held during this year, and taking into account the Commission's comment, the GRA will publish consultation on the application of retail price control and cost accounting obligations, as well as decisions in significant market power obligations in the wholesale fixed market and wholesale mobile market. Last June, with Government's approval, the GRA announced the new numbering plan for Gibraltar. As from the end of last year, all five digit telephone numbers were increased to eight digits to bring an end to the shortage of telephone numbers which had affected Gibraltar for many years. This change was made possible following the implementation of the Cordoba Agreement, made between the Governments of Gibraltar, United Kingdom and Spain. This one-off change will meet Gibraltar's needs for numbering in the short, medium and long term. The main change in the new plan has been the introduction of fixed numbers which are eight digits long, the same length as mobile numbers. All current five digit numbers have been extended by adding "200" in front of all numbers. The whole change is spread over a period of 18 months and the number change will be completed by 31st December this year. The GRA continues to provide support to satellite operators, SES Satellite Gibraltar Limited, in relation to the coordination of networks and the follow up required with the International Telecommunications Union.

I will now turn to the conversion to digital television. As I informed Parliament last year, the Government agreed that



Gibraltar would meet the cut off date for all analogue television services in Europe. The analogue switch off will be completed by 2012. The Government is examining proposals for a detailed plan to introduce the two channel blocks for digital radio, known as T-DAB, and two channels for digital television known as DVD-T that are eight programmed channels available. I am pleased to inform Members that Government will be making an announcement in respect of the GBC review later this month, with the objective of starting the process soon thereafter. I know that this Government initiative will be welcomed by the Board, management and staff of GBC.

The Royal Gibraltar Post Office has invested in electronic bar coding of all outgoing mail bags to commence with effect from summer 2009. This will ensure the trackability of all mail bags via the Universal Postal Union website, and thus immediately put on notice any hiccup in the Royal Gibraltar Post Office outgoing mail pipeline. The same product infrastructure will permit the tracking of other specific services in 2009. The project has been developed in conjunction with the Universal Postal Union. Thus, just as the standard seven to ten days local mail delivery was eradicated in 2003, the problems encountered during the last Christmas with outgoing mail being held by handlers in the UK, will also be eliminated. The Royal Gibraltar Post Office has successfully delivered on over 96 of all mail walks in accordance with the next day delivery model. New secure mail products are being worked on in association with the Royal Mail for introduction in 2008. These have been made possible thanks to the on-going development of e-commerce operations, which have created the volume necessary to attract the cooperation of Royal Mail.

This brings me on to the topic of e-commerce. There are two main e-commerce businesses operating with the Royal Gibraltar Post Office, one of which, IDT Finance, is continually expanding its locally based operation. It is expected that the other operator will also continue to expand and that other e-commerce operators, both local and international, will also establish

enterprises here. E-commerce legislation is currently in the pipeline.

Now turning to the Gibraltar Philatelic Bureau, for which I am the Chairman. The 2007 licence fee was equal to the guaranteed minimum of £57,000, giving the continuing downturn in the philatelic market. However, the Bureau is currently focusing on improving its on line sales to collectors, attracting new regular customers, cooperating with other postal administrations by means of joint promotions and joint issues, plus further innovations in the philatelic market. Despite the downturn in philatelic business, which has been experienced by the whole of the philatelic industry, Gibraltar stamps continue to be popular worldwide and the Bureau currently has a client database of more than 12,000 active customers.

Following the recent ministerial reshuffle and within my remit for transport, I continue to have responsibility for cruising and aviation. However, before dealing with these two topics I wish to express my sincere thanks to the management and staff of the Gibraltar Tourist Board, for their untiring efforts towards developing Gibraltar into the successful tourist destination it is today. I have enjoyed my 12 years at the helm of Gibraltar's tourism and I am confident, that contrary to what Dr Garcia may have us believe, I am proud to have handed over to my colleague Ernest Britto a thriving industry. I am aware that there is still more to be done and I am sure that Minister Britto will continue to successfully develop our tourism industry.

Cruising in 2007 was a great success. There were 227 cruise ship calls in 2007, representing a rise of 12 per cent on 2006 and almost 276,000 passengers, representing an increase of 63,000 passengers or 30 per cent over 2006. The number of cruise ships expected to call at Gibraltar in 2008 is currently 231, with a potential of approximately 319,000 passengers. This would represent an increase in the number of passengers of 15.5 per cent on 2007. Bookings for 2009 are encouraging. To date 157 ships have already booked to call at Gibraltar, with a potential of over 279,000 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 also continues to be a leading and active member of MedCruise, the Association of Mediterranean Cruise Boards. Through this organisation and also through the exhibition and conventions organised by SeaTrade, the port ensured that Gibraltar maintains its position as one of the most important and popular cruise destinations in the Mediterranean.

The number of arrivals by air last year was 179,267, an increase of 8.88 per cent over the previous year. When the sale of GB Airways to EasyJet was announced last year, it was also announced that EasyJet would commit itself to operate in the summer schedule that GB Airways had already announced for Gibraltar. This has been the case with EasyJet flying 16 flights per week to London Gatwick. In addition to these flights, British Airways also announced it would be operating seven flights a week to Gibraltar from London Gatwick. Monarch Scheduled continues to operate seven flights to London Luton. Gibraltar, therefore, currently has 30 flights per week to the London area. In addition to these services, Parliament will be aware that Monarch Scheduled recently announced the reinstatement of flights between Gibraltar and Manchester, with a frequency of three rotations per week. The decision to reinstate this service followed the announcement by Government of a new financial model for the airport that would allow existing carriers to develop and expand their services to Gibraltar. This new model should also encourage services from new destinations. The Government continues in discussion with airlines that service other European destinations. Last year saw the reduction of services from Gibraltar to Madrid, with Iberia currently operating just two rotations per week. However, the Government is actively exploring possibilities, together with Iberia, for an increase in frequency. 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 terminal/road infrastructure, tunnel and multi storey car parks. 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 for the airport.

Before I end my contribution on aviation, I would like to draw Members' attention to a rather irresponsible and foolish press release issued by Dr Garcia as Opposition Spokesman for civil aviation, in which he appears to suggest that the Government should be responsible for the level of service offered by the low cost airline EasyJet. If Dr Garcia knew anything about airline operations, as he claims he does, he should easily be able to tell the difference between the services that were provided by GB Airways, a full service airline, and EasyJet which runs a low cost operation. To say that the Government should have approached EasyJet to suggest it change its business model for its operation to Gibraltar is absurd and shows a lack of awareness of the airline industry. Unfortunately, comments like this in the press are not in Gibraltar's best interests, and this could jeopardise the good relationship that exists between Gibraltar and airlines that operate the Gibraltar route.

I will now turn to road transport. Parliament will recall that last year I mentioned the fact that the Department had introduced the European Blue Badge scheme for the disabled. I am pleased to report that the scheme is working very successfully and has been welcomed by individuals, institutions and societies. The advantage of obtaining this badge is that in addition to being entitled to park in parking bays for the disabled, it also provides rides outside Gibraltar. Badge holders are able to take advantage of the applicable motorist parking privileges wherever they are in the rest of the European Union.

Another issue that is a very high priority is the removal of derelict and abandoned vehicles. Work continues with very good results and the Government are committed to continuing with this strategy. I am pleased to say that between May 2007 and May 2008, over 525 vehicles have been disposed of. This, together with the imminent completion of the new car parks in the Upper Town, New Harbours and Sandpits, will serve to improve the parking situation. These three projects will yield a

total of 490 new parking spaces that will undoubtedly be welcomed by residents in these areas, as they will clearly go a considerable way towards addressing the parking problems in those areas. Parking spaces in these three car parks will shortly be put on the market by Government for sale or short and long-term rental. However, our strategy to provide multi storey car park facilities continues. Government recognises that lack of adequate parking has historically been a problem in our community, and as set out in our manifesto, we are committed to building other car park projects to target those areas identified as being in need. Government is currently working on the new parking schemes, such as Grand Parade, and new roads such as new links at Europort. Additionally, as recently announced, Government will shortly commence the construction of a multi storey car park in Devil's Tower Road, by the Cross of Sacrifice, that will accommodate approximately 1,200 vehicles. This project will incorporate a park and ride system, mainly for visitors to Gibraltar, in addition to other normal parking facilities.

The Government also continue to monitor traffic flows and will strive to ensure further enhancement. A case in point was the opening on 12<sup>th</sup> April 2008 of the new Upper Town relief road linking Moorish Castle and Willis's Road. This has contributed to the removal of the hold ups of traffic, especially at peak hours, which has been welcomed by residents of the area. Government are also looking at new traffic schemes, such as improved traffic flow arrangements at the Trafalgar interchange, to decongest the access to town from the south district. The interchange is aimed at improving traffic circulation around this crucial part of our road network and is programmed to start in this financial year. Work will also start to extend the Dockyard road southwards and provide a link to Rosia Road. This will provide a new road for motorists, that will eventually further improve the situation in the Trafalgar area.

I will now turn to the Gibraltar Bus Company and I am pleased to report that about 1,734,000 paying passengers travelled on these buses during 2007, representing an increase of 17.2 per cent over the previous year. The Government are satisfied with

the service provided by the Company but wishes to encourage further use of public transport as part of its integrated transport policy. All current bus routes are now under review with a view to improving the service provided and encouraging usage of public transport.

I will now report on the Port. The maritime sector in Gibraltar has enjoyed another remarkably good year in 2007. The prospects for 2008 are for continued growth in all areas that make us the Western Mediterranean's one stop shop for shipping services. The number of vessels calling at Gibraltar in 2007 was 9,618 which is an all time record, representing 282 million gross tonnes. Bunkering operations in 2007 continued to perform well with almost 4.5 million tonnes of bunkers being delivered, representing a 12 per cent increase over 2006. This week the Gibraltar Port Authority is again hosting a stand at Posidonia, the world's premier shipping event in Athens. All major shipping companies and representatives of the world's ports attend this event which is held every two years. This year, as has been customary in the past, the Gibraltar stand has been part sponsored by the local shipping fraternity with little cost to Government. The Gibraltar Ship Registry, as part of the Gibraltar Maritime Administration, continues to grow year on year. Last year it was growing by approximately 16 per cent. During the year, the Gibraltar's Shipping Registry attended shipping conferences in Hamburg and Oslo, to meet and explain to existing and prospective owners the advantages of having their ship registered in Gibraltar. The number of vessels on the Gibraltar Ship Registry continues to grow. Since 1998 the fleet has increased from 26 to 260 in May 2008. Furthermore, total gross tonnage ten years ago was less than 300,000 gross tonnes. It is now over 1.5 million and is still increasing. International clients have highlighted the quality service and efficient registration procedures over the last few years. The Gibraltar fleet, at an average age of ten years, is also one of the youngest in the European Union. 2007 was also a record year for seafarers certification. Over 2,200 endorsements and related seafarers certificates were issued. The Maritime Administration boasts highly knowledgeable staff, rapid turnover

and an effective client interface, one that has been praised by international ship owners and crew agents. To achieve and maintain the level of service provided by the Department, its manning and operational costs have also had to grow. Last year saw the recruitment of two new marine surveyors. Further recruitment is taking place this year with the second Gibraltarian joining the team this week.

In March 2007, the fully loaded Greek tanker Samothraki run aground in the southeastern point of Gibraltar. Fortunately, there were no injuries or pollution. A full investigation was conducted by the Gibraltar Maritime Administration, with the final report being submitted to the International Maritime Organisation, the IMO, and a copy published in the Administration website.

Then in August 2007, the loaded Danish tanker Torm Gertrud carrying cargo was in collision with the Panamanian bulk carrier New Flame carrying a cargo of scrap metal. The Torm Gertrud sustained serious bow damage, however the New Flame was holed in way of No. 1 and No. 2 cargo holds, and sank soon after the collision south of Europa Point. All the vessel's crew abandoned the ship safely and there was no pollution. Initially, the Greek Salvage company Tsavliris were contracted by the vessel's insurers to salvage the vessel after the removal of all heavy fuel oil bunkers. While the removal of bunker fuel was a success, the salvage of the vessel failed mainly due to adverse weather and tidal conditions, and the demands placed on the insurers from the salvors themselves. In the latter part of December, the vessel's insurers terminated the services of Tsavliris and engaged through tender the wreck removal company, Titan, for the removal of the wreck and her entire cargo, one of mixed clean scrap. This operation is still on-going and it is anticipated that it will not be completed until some time later this year. The Gibraltar Maritime Administration took the lead following consultation with the Danish and Panamanian authorities and investigated the incident. A report is currently being completed.

Our obligation under the Paris Memorandum of Understanding on Port State Control, which requires Gibraltar to inspect the percentage of vessels calling at Gibraltar, has been met and was again within budget. During the year, 373 inspections on Gibraltar registered ships were carried out in the Paris MOU and only eight ships were detained. Gibraltar will again be included in the Paris MOU white list, moving up the table to its highest position to date. Early indications are that Gibraltar for the first time ever will qualify for the United States Coastguard Qualship 21 Scheme in 2008. This is a scheme that uses various parameters to assess the standard of ships registered by the vessel and an assessment of the flag state's compliance with the international standards. For those flag states which meet these standards, a reduced inspection regime is imposed on their ships. Last year there were only 11 flag states on the Qualship 21 List. Unfortunately, the number of countries requesting auditing by the International Maritime Organisation has resulted in a backlog while the IMO organises the necessary team of international accredited auditors. While Gibraltar has made an application it is not expected the audit will be carried out until late 2009. The Maritime Administration recently bid to host the Red Ensign conference in 2009. This conference brings together all members of the Red Ensign group to discuss matters of mutual interest and concern, and to develop agreed policies to improve the standard of fleets. The conference accepted Gibraltar's bid and I am pleased to announce the conference will be held here in May next year.

I will now turn to utilities which also fall within my ministerial responsibilities as Chairman of the Gibraltar Electricity Authority, AquaGib and Gibtelecom. During the last financial year, the total units of energy generated by the Waterport Power Station and purchased from OESCO reached an all time high of 156.98 million units, representing an increase of 3.67 per cent over the previous year. Units billed to consumers totalled 148.79 million units, representing an increase of 2.1 per cent. The total amount billed was £16.24 million, an increase of 3.1 per cent. The amount collected was £16.21 million, a decrease of 1.3 per cent. The number of consumers stood at 16,267 at the end of

March 2008, an increase of 238 which is equivalent to 1.5 per cent. The total installed generating capacity is 42.8 Megawatts, the highest recorded peak for this year was 28 Megawatts reached during January 2008. As the Chief Minister announced on Tuesday, the Government will continue to shield consumers in Gibraltar against the ever increasing price of fuel, which has almost doubled during the past year. The increase in fuel costs to the Gibraltar Electricity Authority, which is reflected in the Authority's direct fuel purchases in respect of Waterport Power Station and in the purchase of electricity from OESCO, will necessarily reflect this increase. In the financial year 2007/2008 alone, the total cost of fuel to the Authority was over £3 million more than the original estimate for the year. Nevertheless, the increase in electricity costs to consumers effective from July 2008 will be contained at 15 per cent. The Chief Executive Officer, Mr Xavier Pons, retired at the end of March 2008 after 40 years service in the Electricity Department and later in the Gibraltar Electricity Authority. I would like to take this opportunity to wish him a long and happy retirement. He has been succeeded by Mr Manuel Alecio who has experience in the electricity distribution and generation discipline. The Authority is currently engaged in improving the public lighting such as projects at Camp Bay, Europa Road et cetera, and is in the process of engaging lighting engineers to carry out a survey of the existing public lighting system and recommend improvements which are compatible with modern technology and environmental responsibilities. A number of new sub stations have been erected and commissioned, some due to new projects such as Ocean Village, Trade Winds, The Anchorage et cetera, and others due to the need to continue refurbishing and reinforcing the distribution network, such as at Landport and King's Bastion sub stations. The latter is now supplying the recently inaugurated Leisure Centre. At Waterport Power Station, the high voltage board has been extended by the addition of four 11,000 volt circuit breakers and the refurbishment of the remote monitoring and controlling facility, technically known as SCADA, at the three distribution centres. The Authority has also been participating in the procedures required to ensure that the new power station and the

distribution infrastructure complies with the requirements of our energy needs for the present and future, considering major developments such as the new airport terminal and the Eastside project. Undoubtedly, 2008 and in fact the next few years, will present a very interesting challenge to the Gibraltar Electricity Authority.

Now turning to AquaGib. During the last financial year, a total of 1.3 million cubic metres of potable water were supplied, which represents an increase of 2 per cent over the previous year. AquaGib pumped an estimated total of 3.4 million cubic metres of sea water to the various sea water reservoirs. The sewage pumping systems were operated at high availability with the pumping station at Sandy Bay suffering storm damage in March 2008. Throughout the year the quality of potable water supplied by AquaGib complied with EU Directive requirements, with two noticeable exceptions. Failure in the MOD supply to AquaGib consumers in the Upper Rock caused AquaGib to issue boil notices until the fault in the MOD system was rectified with the assistance of AquaGib personnel. Boil notices were also issued to large areas of the north district when the trunk main in Laguna was ruptured by the rockfall on 26 June 2007. Repairs were promptly undertaken by AquaGib. AquaGib is in the process of installing two new reverse osmosis desalination units at Governor's Cottage Camp site and will produce 2,400 cubic metres a day. These units are expected to enter service in summer 2008, producing water to the European Union quality standard. The total value of this project is £3.5 million. A major benefit of these units is that their overall energy consumption is significantly lower than that for the distillers, and consequently their impact on the environment will be much less. Again, in the case of water supply, the extreme rise in the price of oil has had its effect and increased the cost of water production. Tariffs will again increase by 15 per cent as from July 2008, even though Government policy to continue shielding consumers in Gibraltar from the full extent of the increase in the cost of producing water will continue.

I will now turn to Gibtelecom. In touring round the company this year, I was impressed by the professionalism and competence of the staff and the contribution they are making to modernising this business, so as to remain in touch with the fast moving world of telecommunications. Many Gibtelecom employees now work in a multi-skilled, multi-task environment with the result that customers benefit from longer opening hours and enhanced level of service. The company recently completed its in-house programme, namely, the management development programme and the Gibtelecom development programme, running parallel with the business school of the University of Durham. These programmes, which between them were attended by over 140 staff and run over three to four years, have contributed to capturing the synergies of merger between Gibraltar Nynex and Gibtelecom, as well as delivering improvements across many areas of the business. This investment in people is also evidenced by Gibtelecom's plan to introduce an apprenticeship scheme, working in conjunction with the Department of Education and Training. Such a scheme would give the opportunity to younger people who do not wish to go onto full time further education, the opportunity to attain the Business and Technology Education Council National Diploma and the NVQ in telecommunications related topics over a four year period. As hon Members are aware, Telekom Slovenije purchased Verizon Communications' 50 per cent shareholding stake in Gibtelecom in April last year. Gibtelecom is benefiting from Telekom Slovenije's experience of operating within the European market, as it is assisting the company in bringing new technologies to Gibraltar's partnership with the Government. One of Telekom Slovenije's subsidiaries, Movitel, a European leader in mobile technologies, have provided Gibtelecom with the invaluable technical expertise and support in its £2 million investment upgrading of its Ericsson mobile network. In the not too distant future, Gibtelecom will commercially launch the 3G plus high speed download package access service. This, together with commissioning an intelligent pre-paid mobile platform, will provide consumers with higher speed access on their mobile telephone terminals and have already enabled Gibtelecom's pre-paid reload customers to make outgoing calls

when travelling abroad. As a result of Gibraltar's 350 international dialling code finally being recognised by the Spanish authority, as a consequence of the Cordoba Agreement, Gibtelecom have also made a substantial commitment in upgrading its System X switch. This is to facilitate the implementation of Gibraltar's new numbering plan, extending the five digit fixed telephone numbers to eight digits. Gibtelecom also continues to invest in enhancing the company's state of the art fibre network infrastructure and international back win capacity, to enable the company to meet the growing requirements of Gibraltar's business and e-commerce sectors, particularly the on-line gaming industry. New routes are being explored so that the company can continue to meet the needs of the community for enhanced capacity and diversity for many years to come. During the last financial year, the company also continued to upgrade its internet system and Gibraltar now boasts a very respectable internet broadband penetration per capita rate of 25 per cent. Measured by household, the broadband penetration rate stands as high as 70 per cent. The Government is also pleased to see Gibtelecom's on-going refurbishment of company premises, including technical areas and commissioning of a new and extended data centre, for housing customers' equipment at Mount Pleasant. Gibtelecom's new premises at John Mackintosh Square, in the heart of town, adjacent to where the company has some of its technical equipment in the Haven and City Hall, is close to completion. The commencement of the relocation, which is planned to house an upgraded customer service centre, together with headquarters, technical and various support functions, is expected to get underway later this year. The company is reaping the benefits of its substantial investment in its people, infrastructure and business moderation. The company's turnover grew for the calendar year 2007 by 7 per cent to £30.4 million, despite increasing competition and lower prices for many products and services. I commend the Bill to the House.

**HON G H LICUDI:**

Mr Speaker, this will be my very first Budget speech, my maiden Budget speech and I rise to deliver it with a sense of responsibility and hope. Responsibility because I consider that the business transacted in this House is important business which affects the lives of people living and working in Gibraltar, and as such must be taken very seriously, and hope because it is my sincere wish that the contributions by the various Members in this debate, are not regarded by the general public as a meaningless ritual of self praise by those on the Government Benches and critical damnation by those on the Opposition Benches. Hon Members will have already seen for themselves that I will be happy to be positive and constructive where it is possible to be positive and constructive, but I will also be unwavering in my responsibility of calling the Government to account in the strongest possible terms, where it is necessary and appropriate to do so. In Mr Speaker's contribution at the time of the ceremonial opening of Parliament for this session, he reminded us of comments made by the Chief Minister shortly after the October Elections, when he said that Government would adopt a slightly more consensual approach with the Opposition. Mr Speaker commended to hon Members certain words of wisdom on common purpose and common intention, with which I agreed entirely. It seems, that Mr Speaker's commendation has fallen on deaf ears by those in Government. I have seen no indication whatsoever of a more consensual approach on the Government side. Indeed, the approach seems to be based on a policy decision to provide as little by way of information or answers to questions as they can possibly get away with, and generally to be as obstructive as they possibly can. I say "seems" because that is certainly my impression as a relatively new Member of this House. An example of what I consider to be the negative and obstructive approach by the Government, is the handling of the information contained in the Employment Survey. Last week I asked why the Government was laying on the Table the Employment Statistics when this has previously been provided to the Opposition without it being laid before Parliament. It was very

obvious, to me at least, that the wrong document had been included by the Government in the Order Paper. The correct document was the Employment Survey. But instead of admitting that they got it wrong the Chief Minister, curiously not the Minister for Employment who was laying the document on the Table, rose to justify the inclusion of the Employment Statistics. Clearly he and the Minister for Employment were caught by surprise by my question. Clearly also, he, the Chief Minister, had given no thought to the reason why this document was on the Order Paper. What the public will not have seen or heard was the whispering that took place immediately after the Chief Minister sat down, with the Minister for Employment clearly saying to the Chief Minister something like, "oops we got it wrong, it should have been the Employment Survey that was laid on the Table".

**HON CHIEF MINISTER:**

Mr Speaker, on a Point of Order. With respect, that is a disgraceful statement for the hon Member to make in this House. What he has just led people to try and believe falsely was uttered in a whisper and, therefore, surreptitious and designed to deceive, was actually uttered by me publicly on my feet, across the floor of the House, openly, to the Leader of the Opposition. The hon Member is therefore purposefully intending to mislead not only this House, for which I will move a motion in compliance with Standing Orders, but indeed everybody in Gibraltar listening to this broadcast today. Shame on him.

**HON G H LICUDI:**

That is quite an extraordinary outburst by the Chief Minister. It is not accurate and I will explain why it is not accurate. What I have said was that there was this whispering, and I stand by it because there was. Certainly it is true that the Chief Minister then got up and made a reference to the Employment Survey, but that followed the whispering.

**HON CHIEF MINISTER:**

So what is wrong with the whispering?

**HON G H LICUDI:**

I am not saying that there is anything wrong with the whispering, I am saying that it happened.

**MR SPEAKER:**

Order, order.

**HON CHIEF MINISTER:**

What is the point then?

**MR SPEAKER:**

Order, order, I will allow the Hon Gilbert Licudi to carry on.

**HON G H LICUDI:**

I am not sure whether the Chief Minister got up on the wrong side of bed this morning but he certainly rose to his feet far too quickly there, I was not criticising the Government for that, I was simply stating a fact.

**HON CHIEF MINISTER:**

I am sorry, another Point of Order. The hon Members are not going to be allowed by the Government, without protest, to get away with trying to persuade the Speaker to adopt one attitude

when they do something and a different attitude when they are on the receiving end. It is not true what the hon Member has just said that he was not criticising the Government with that statement. He used that issue as an example of the Government policy to provide as little information as possible and to be as negative and obstructive as possible. This is my impression as a newcomer to this House, for example, what happened with the laying of the Employment Survey. It is not true that he has not said what he has said in order to criticise the Government, another example of the hon Member misleading this House.

**HON F R PICARDO:**

Mr Speaker, can we establish beyond peradventure, that people should not say in this House that somebody is misleading the House, that they should actually just put the motion. If people are going to get away with saying that Members are misleading the House, then we shall adopt, the same as the Chief Minister says he wants fair treatment for both sides of the House, that phrase on this side of the House and simply threaten to bring a motion and then not bring it, when we want to use the phrase. Mr Speaker ruled on 26 June 2006, I have the ruling here, that Members are not to use that language and that they are to put motions. Can we please stick to Mr Speaker's ruling?

**MR SPEAKER:**

Yes, order, can we get this back on track. First of all, may I assure all Members on both sides of the House, no matter where they sit, I intend to treat every Member in exactly the same way. That is the way I have embarked upon three and a half years ago and that is the way I intend to carry on. Now with respect, I do believe that the Hon the Chief Minister was rather too quick on his feet to complain about the Hon Gilbert Licudi's statement. As far as the statement went, it did sound that Mr Licudi was referring to conversations in whisper but he has since



clarified that there was some whispering going on and then subsequently he has accepted that the Hon the Chief Minister did stand up and say out loud, for the record, that the wrong document had been laid. So really why are we going further down this road?

**HON CHIEF MINISTER:**

He only agreed to that and only made that clarification because I got up to my feet to protest. Otherwise Mr Speaker would have left the false impression to lie.

**MR SPEAKER:**

Order, order.

**HON G H LICUDI:**

I am happy to provide the Chief Minister with my speech, let us see what it says in the next few lines. Later no, now.

**MR SPEAKER:**

Order, order. That is why I did conclude that perhaps the Hon the Chief Minister was rather too quick on his feet, regardless of what time or what side of the bed he got off. The point is the hon Member has made clear what his xxxxxx remarks were going to be. As far as the point the Hon Fabian Picardo has made about a ruling on 26 June 2006, I think the ruling was very clear and has been accepted, I think, by the Hon the Chief Minister when he said he will put a motion. Perhaps we should make it clear that rather than use words as misleading and then follow it with an indication of further motions, perhaps one should just move in with the motion straight away. That would

make life a lot easier, and would perhaps eliminate the allegations of misleading or at least reduce some of them.

**HON G H LICUDI:**

So much for the expression of hope I started with when I started this contribution. I mentioned the whispering that went on before the Chief Minister got on his feet, if I may continue? There then followed a scampering around in search of the missing document, with the Chief Minister telling us that the Employment Survey would be provided to all hon Members the following day. As indeed it was, before the document was formally laid before Parliament, which has actually happened this Tuesday. But the hon Members say, what is wrong with that? Let me explain why I find this whole episode so disappointing, and in fact disturbing. I wrote to the Minister for Employment on 8 May of this year, asking him to provide us with a copy of the Employment Survey. I said in that letter, "I understand that this has not yet been laid before Parliament and we will need this for the Budget session later this month". As Mr Speaker knows, we were expecting the Budget session to take place on 27<sup>th</sup> May and I wrote on 8<sup>th</sup> May. The Minister told me that he had been advised that this could not be provided until it was laid before Parliament. So I wrote to him again on 20<sup>th</sup> May.

**HON J J BOSSANO:**

In fact, I am sure the hon Member will confirm that he has on more than one occasion provided me with that information, precisely so that I would have it as soon as he had it in anticipation of the budget. So whatever advice the Minister got was not correct.

**HON CHIEF MINISTER:**

I do not know because I have not seen the letter. Taking Mr Licudi at some risk immediately at his word, without waiting to see what he is going to say in the next paragraph of his speech, which may of course change everything that he has just said and the natural meaning of it, we now learn with Mr Licudi until he finishes his speech, one cannot interpret anything of what he has said immediately before it, because he says one thing and then later he says something that is completely different. So this is something that we have all learned from the new Member. Okay. What he has said, subject to what he says in a moment's time I suppose, therefore, is that he wrote asking for the Employment Survey. In other words, the whole document. I cannot recall, but I stand to be corrected, contrary to what the Leader of the Opposition has just said, providing ever to him the full Employment Survey. I recall providing him information but not the full Employment Survey. Indeed I know of no precedent of the full Employment Survey having been provided to anybody before tabling, except last week when I provided this a day or two before, given what had happened the day before.

**HON J J BOSSANO:**

Obviously, since I have been around longer, I can tell him that, since he was talking about precedent, in fact, the worst precedent of the lot was a Minister who actually produced, before his time, the content of the Survey on television before it was tabled in the House. I do not know whether there is anything to prohibit that but it has been done before.

**HON CHIEF MINISTER:**

The hon Member made two points. One that what Mr Licudi was asking for is something that I had done for him before. I think he has recognised that that is not correct, that I have never produced to him in advance the full Employment Survey.

**HON J J BOSSANO:**

I have recognised that he does not remember, but I also recognise that his memory is not as good as mine. That is all I recognise, he does not remember it.

**HON CHIEF MINISTER:**

Is the hon Member saying that I have provided to him before tabling the Employment Survey?

**HON J J BOSSANO:**

Absolutely, and I was very grateful for it, and that is why I suggested to him that he should write and ask for it.

**HON CHIEF MINISTER:**

Well, when was this?

**HON J J BOSSANO:**

I can give him the year when it happened. This would have happened three or four years ago, when we were very close to the debate but I can get him the exact survey because I remember that I was grateful to him that he said, "this is confidentially and informally and it is not to be used in public, but it is so that you have got advance information". It was delivered too close to the day, this was before the surveys were moved to being produced almost regularly in March. At one stage the Member will remember that it was May or June before they were finalised and then the Statistics Office, actually, were able to get them done quicker and we were getting them regularly in March.

**HON G H LICUDI:**

I have said that the Minister advised me, or informed me that he had been advised that this would not be provided until the Employment Survey was laid before Parliament. So I wrote to him again on 20<sup>th</sup> May of this year, asking that the Employment Survey be provided to us confidentially in the same way as Government Estimates are. In a letter dated 23 May, the Minister rejected that comparison with the Government Estimates and said that there was no requirement to provide the Employment Survey. He added, I quote, "in the circumstances there will be no departure from the established practice". That is why I expected last week the Employment Survey and not the Employment Statistics to be on the Order Paper, and I was surprised when it was not. It is also quite astonishing, that the Minister for Employment did not realise that there was a mistake, because a mistake there was, given that we had been in correspondence on the very same issue only a few days before. He only realised that they got it wrong when the Chief Minister gave an off the cuff explanation for the inclusion of the Employment Statistics. As I have said, the Employment Survey was provided to us eventually last week before it was laid on the Table. The Chief Minister did precisely what the Minister for Employment had refused to do and on which the Minister for Employment had adamantly said there will be no departure from the established practice. The decision of the Minister for Employment is difficult to understand, unless it was calculated to make life as difficult as possible for the Opposition and to be as uncooperative as he can possibly be, because it is now clear that there was no reason in principle why the Employment Survey could not have been provided to us before it was laid on the Table, as in fact it was. We can only describe the behaviour of the Minister for Employment as shameful. The House will understand now, I hope, why I have expressed pessimism about those on the Government side adopting a more consensual approach to politics in Gibraltar. My Hon Colleagues, Mr Bruzon and Mr Picardo, have already in their contributions mentioned the working of this Parliament and I wish to echo their comments. We need to reform and modernise the way this

House conducts its business. Those are not my words, they are the words of the Hon the Chief Minister at the opening of this session of Parliament on 8<sup>th</sup> November 2008. Almost seven months down the line, no indication has been given as to when those reforms will be put in place or will be started. There is an urgent need for that reform. To have two sessions in Parliament during 2007 is nothing short of disgraceful. The new Constitution now requires at least three but clearly that is not enough. Three opportunities to ask the Government questions and hold the Government to account is quite simply to treat this Parliament, the people of Gibraltar and democracy generally with contempt. Regular question times are required and if the British Prime Minister is required to make time available to attend Parliament and answer questions every single week, unless Parliament is in recess, there is no reason why this Chief Minister should not be required to attend this Parliament regularly for the same purpose. Of course, that would mean that topical issues can be raised at a time when those issues remain topical. The Government seem to think that that is not in the interests of Parliamentary democracy. It might not be in their interests for party electoral reasons but they cannot delude themselves to the extent of equating their sectional interests with the interests of Parliamentary democracy. Surely not even the arrogance of this Government goes that far. Or does it? I would urge the Government to start that process of reform immediately. We need to make this House a more dynamic and living organism, with the appropriate level of interaction between Government and Opposition and every reasonable opportunity afforded to the Opposition to hold the Government to account while issues are still topical.

Before I turn to the specific areas of responsibility I have, I would like to touch upon briefly some of the budget measures announced by the Chief Minister. A budget which can only be described as lacklustre and devoid of imagination. A budget with increases in electricity and water which hit the elderly and lowest paid workers worst, increases to petrol for the long suffering motorists, a token gesture on personal taxation and a reduction in corporate taxation which goes nowhere near far

enough and which will disappoint our business community. There is also an increase in the standard minimum wage from £4.50 an hour to £5.00 an hour but only from 1<sup>st</sup> January 2009. In 2003, the minimum wage was increased to £4.00 with effect from 1<sup>st</sup> July 2003. In 2005, the minimum wage was increased to £4.50 an hour with effect from 1<sup>st</sup> July 2005. After three years at the same level there is an increase, but in a departure from past practice, the increase does not take effect in July but in January of the following year. Whilst those on the minimum wage who will not have had a pay rise for three and a half years have to pay increased rates in electricity and water with effect from 1<sup>st</sup> July of this year, their salaries will only increase in January of next year. They are effectively worse off by a budget that hits the lowest paid hardest. One other measure announced by the Chief Minister is the abolition of mortgage interest relief allowance or MIRAS for loans over £300,000. This is another revenue raising measure in this budget although we are not told how much revenue the Government expects to generate from this. We are told that this affects around 40 taxpayers. In other words, this affects Gibraltar tax paying residents. Many of these are Gibraltarians, perhaps the large majority of them, it does not affect Category 2s, it does not affect Category 3s, they have a special tax status and get no tax relief. This affects local people. There are many properties in Gibraltar that are already outside the £300,000 limit. Flats at Euro Plaza, for example, I understand are selling at around £400,000. Many Gibraltarians will be faced with the decision whether to buy in Gibraltar or in Spain. MIRAS provides a good incentive for buying locally and continuing to live in Gibraltar. Tax relief for the whole of the loan may turn out to be an important factor in that decision. There should be incentives for Gibraltarians to stay in Gibraltar and those incentives, where they exist, should not be removed. We have had a situation where many people have been forced to leave Gibraltar because they simply could not afford to buy property here, and because of the absence of affordable housing and housing for rent since this Government have been in power since 1996. Now this Government is tackling the other end of the scale and removing an incentive to

live in Gibraltar. It is a bad policy which clearly has not been thought out properly by this Government.

I turn to the areas of my responsibility which are employment, traffic and transport, youth, sport and leisure. I will deal first with employment. Mr Montiel's contribution during the course of this debate contains, in my view, very little if anything which was concrete or of substance. There is, therefore, very little to actually respond to. But let us not forget that the party in Government has had the audacity to suggest that it is the party of the workers, but actions speak louder than words and their behaviour tells a very different story. A characteristic of the Government's handling of issues which have been touched upon already, issues with the ambulance personnel, with workers at Dr Giraldi Home and now with firemen, demonstrates the heavy handed and bullying approach that has been adopted. What is most extraordinary about this is that the Minister for Employment and Industrial Relations was formerly the leader of a trade union. We also have on the Government Benches a former president of the Gibraltar Trades Council, a former Branch Officer of the Transport and General Workers Union and a former executive committee member of the GSLP, who sold his soul to the devil, metaphorically speaking, because he had nowhere else to go. One would expect that those persons, at the very least, would recognise and respect the rights of workers and to adopt a more conciliatory approach. Mr Montiel spoke of this but where is it in practice? We have certainly not seen any sign of it. It is regrettable that those principles appear to have been forgotten. Indeed it seems to be a pre condition of entry to the GSD that those principles are left at the door. It is also regrettable that Ministers should hide behind officials, as has occurred with the episode of the fire station, with the Minister saying that recent changes concerning access to the station were decisions of the Chief Fire Officer, and correspondence subsequently coming to light saying very clearly that the instructions came from the Minister. Protecting the rights of workers is also exemplified by keeping up to date the laws on employment rights, including laws for the protection of employees who have been dismissed. It is fair to say that we

have a considerable body of laws which are aimed precisely at providing these protections. Many of these laws originate from European Directives and are not brought in of the Government's own motion or volition, but having put those laws in place it is necessary to keep them updated. There is now a significant disparity between compensation levels in the industrial tribunals in the UK and those in Gibraltar. There are generally two types of award that can be made by the industrial tribunal, the basic award and the compensatory award. The basic award is prescribed in Gibraltar as being not less than £2,200. That has not changed since 1992, that is, no change at all in 16 years. The practice, as I understand it, is to award £2,200 as a basic award although I am aware of at least one case where a slightly higher award was made. In the United Kingdom the minimum basic award is £4,400 and the maximum is £9,900. In other words, the maximum is four and a half times what is generally awarded in Gibraltar. As regards the compensatory award, this goes up every year because it is linked to the minimum wage. However, the maximum is £38,704 compared to a maximum in the UK of £72,900. In other words, the maximum Gibraltar award is 53 per cent of the maximum UK award. In January 2009 the minimum wage will rise and, therefore, the maximum award will also rise. Even then, according to my estimates, it will be around 55 per cent of the UK maximum. That differential is unjustified and unsustainable, particularly having regard to the principle of parity of wages with the UK. Generally, dismissed employees who wish to make a claim have two options, they can start proceedings in the Supreme Court for wrongful dismissal or claim unfair dismissal. Any damages for wrongful dismissal awarded in Gibraltar will be based on rules developed by the common law. In other words, the calculation of compensation is based on principles established by the Courts of England and Wales. Thus damages for wrongful dismissal in Gibraltar equates to damages for wrongful dismissal in Gibraltar. Why then is there a significant differential for unfair dismissal? I would add, as an aside, that there may also be claims by dismissed employees under equality and anti-discrimination legislation. Compensation for such claims are also generally determined by principles of common law and will thus be the

same as in England. Pausing for a moment on anti-discrimination measures, we note that measures are being taken to remove all discrimination in relation to tax matters. It is, in any event, also important that the Government should adopt anti-discrimination measures in practice. On Tuesday of this week the Hon Minister for Culture mentioned improvements to Ince's Hall. Specifically he spoke about improvements to the curtains, lighting and sound systems. It is unfortunate, that not all members of our community will be able to enjoy those improvements. Despite a question having been raised in this House on a previous occasion, access to the Ince's Hall by disabled persons is still not possible or very difficult. It is not difficult at all, I would imagine, for a lifting mechanism to be installed in the area of the steps within the courtyard towards the back of the Hall, and we cannot understand why this is not done. It should be done because disabled persons have as much right as anybody else to enjoy these facilities. Before I deviated slightly I was speaking about differentials in compensation and I would urge the Government to give serious consideration to reducing that differential.

The Hon the Minister for Justice stated in answer to Question No. 45 of 2008, that the Government has no such proposals at this time. It seems that the Government is concerned at having to pay itself higher levels of compensation given the manner that it treats its employees. But that is not a proper criteria for setting Government policies. I have referred to the way Government treats its employees and I use the word "employees" advisedly. I have in mind what I can only describe as an attack, which the Government launched against the chairman of the industrial tribunal in the case in which the Hon Mr Netto referred to yesterday and in respect of which I will say something in a moment. In that attack, therefore, by the Government, has not been limited to Ms Hernandez but also to the chairman after he recommended, as part of his ruling, that the Government consider engaging or re-engaging Ms Hernandez. Everybody knows that employees of the Social Services Agency in reality work for the Government. Everybody knows that employees of the Gibraltar Health Authority in reality work for the Government.

Nurses and doctors do not work in a private hospital, they are public servants who work for the Government. Who decides whether they should be engaged or fired? We all know that the Government does. The same applies to workers of the Electricity Authority and of the Sports and Leisure Authority. These are not private entities that happen to be owned by the Government, they are public bodies in every sense, and to hide behind legal technicalities or niceties when everyone knows the reality is another example of the unashamedly, arrogant manner in which this Government handles Gibraltar's affairs. Before returning to the question of compensation of the industrial tribunal, let me deal with one aspect of Mr Netto's contribution of yesterday, a contribution which we found, and many people hearing this debate, will have found most disappointing from this particular Minister. The hon Member's contribution contained an extraordinary and, I believe, unprecedented attack on a private citizen. Naturally, I accept Mr Speaker's ruling that the hon Member was entitled to make his comments and nothing I say detracts from that. But I do need to answer the Minister without going into the facts as he did. What the Minister did essentially was to recite to us the evidence that they decided not to present in the industrial tribunal. Had they presented that evidence and had they cross-examined Ms Hernandez, they know that they would have been found wanting. Instead they have chosen the cowardly route by launching a personal attack whilst hiding behind the cloak of Parliamentary privilege. I have said that they have chosen not to present their evidence in the industrial tribunal because that is precisely what they did. As I understand the position, their witness was available in Gibraltar for a significant period whilst the proceedings were on-going. They chose not to present that evidence but to stall and delay the proceedings. They chose to fight the matter tooth and nail on flawed and frivolous points of law. Clearly, the tactic was to delay the hearing until the Elections so that the truth would not be heard.

**HON CHIEF MINISTER:**

I may have misheard the hon Member. Did he say that the Hon Mr Netto had abused his Parliamentary privilege?

**HON G H LICUDI:**

Not that he had abused but he had used the cloak of Parliamentary privilege.

**HON CHIEF MINISTER:**

I do not know what the difference is. I think, this is another example of the hon Member inviting us, Point of Order, the hon Member inviting us to believe that his words are intended to send a markedly different signal to the one that they actually naturally mean, to accuse a Member of abusing the cloak of Parliamentary privilege is semantically indistinguishable from accusing them of abusing Parliamentary privilege which he is not allowed to do. So if they want to lecture us about Standing Orders and not abusing them and living without them, they have got to comply with it as well. One is not allowed in this House to accuse a Member of abusing his Parliamentary privilege. It is a gross breach of Standing Orders.

**MR SPEAKER:**

I must say I was concerned with the remark of the hon Member. Having xxxxxx accepted my ruling yesterday that the Hon Minister was entitled to refer to the case of Ms Hernandez, it is not entirely clear to me why then he should be accused of abusing the cloak, whatever that word means in the context, abusing Parliamentary privilege. If he accepts my ruling then he is not abusing Parliamentary privilege.

**HON G H LICUDI:**

I have not said at all that he is abusing Parliamentary privilege but he is making certain comments in Parliament making use, not abusing, making use of Parliamentary privilege. I have certainly not said “abuse”, the Chief Minister said “abuse”. I said “hiding behind the cloak of Parliamentary privilege” means making use of Parliamentary privilege not abusing. The Chief Minister should hear what I say before he gets up.

**MR SPEAKER:**

Fair enough. If the word “abuse” has not been used then he was entitled to say, one is entitled to say what is invoked or used or hid behind Parliamentary privilege.

**HON G H LICUDI:**

Yes, I am glad that has been clarified.

**MR SPEAKER:**

Xxxxxx cannot say was abusing.

**HON CHIEF MINISTER:**

How can xxxxxx hide is not abuse?

**MR SPEAKER:**

It is not the same as abusing, in my view.

**HON G H LICUDI:**

Absolutely not, the hon Member as a senior member of the legal profession, he should know the difference. As a former senior member of the legal profession should know the difference. As I have said, the tactic was to delay the hearing until after the Elections so that the truth would not be heard. They took points on qualification period by arguing that someone who has been employed for one whole year had not been employed for 52 weeks. Even a five year old knows that their argument did not make sense. One year, one calendar year, is 52 weeks and one day in an ordinary year and 52 weeks and 2 days in a leap year. So one year is always, always more than 52 weeks. Their argument was unsustainable and they knew it, but it does not stop them. The implication of their argument was enormous. If successful it would have meant that virtually all employees in Gibraltar who were employed on a fixed term contract of one year and who were dismissed after that year, would have lost the right to claim compensation for unfair dismissal. That is the magnitude and the enormity of what they were arguing. That would have affected everyone in that position except those employees who started work on a Sunday, which no one ever does. So for their own selfish purposes, as litigants in one case, this Government was prepared to undermine the unfair dismissal system and exclude from protection many people who currently enjoy that protection and who the Employment Act itself envisages should be protected. Not surprisingly the Government lost. They lost in the Industrial Tribunal, they lost in the Supreme Court, they lost in the Court of Appeal. Not only did they lose but they lost badly. The Court of Appeal, for example, did not even need to hear arguments for Ms Hernandez, their case was so bad, and it was an absolute waste of public funds. This is a case of the party in Government putting itself and its electoral chances first, and putting the interests of Gibraltar a distant second. They must be condemned for their callous misbehaviour and we do so in the strongest possible terms. Mr Speaker, in a supplementary to Question No. 45 of 2008, I raised with the Minister for Justice a possible defect in the legislation concerning calculation of

compensation in industrial tribunal cases. Either the Minister has completely failed to understand the point or he does not care that there is a problem. I have certainly not seen that there has been any change in recent legislation.

**HON D A FEETHAM:**

A Point of Order in relation to that. The supplementary question where I said to the hon Gentleman at the time, was that the supplementary question did not arise from my answer to his original question, that I had received no notice of his supplementary question and that if he really was concerned about the issue, he should write to me and I would consider the point. He has not written to me. I have to say that just listening to the hon Gentleman's contribution during his speech, and bearing in mind that there has been some repetition....

**MR SPEAKER:**

I must advise the hon Member that this is not a point where one is entitled to interject or to answer the point made. If there is a Point of Order please bring it up.

**HON D A FEETHAM:**

What I cannot allow, it is a Point of Order.

**MR SPEAKER:**

Order, order.

**HON D A FEETHAM:**

What he cannot do is what he is doing constantly, which is a political sleight of hand. On the one hand complaining about non consideration of this, that and the other and on the other, if he is indeed concerned about this he should write to me about this issue.

**MR SPEAKER:**

Order, order. The Hon Member should be reminded, he is not entitled to interject in any other Member's speech to make a point he wishes to make, it has to be only Points of Order. I would ask the hon Member to bear that in mind.

**HON G H LICUDI:**

I am obliged for that. I did say, before I was interrupted, where there was not a Point of Order, is that there has not been any change in recent legislation even though I raised this point in the House several weeks ago. Mr Speaker, the position is that the power of the industrial tribunal to order a compensation is regulated by the Industrial Tribunal (Calculation of Compensation) Regulations 1992. Under the regulations, the compensatory award is calculated by reference to the employee's own salary or to twice the standard minimum wage, whichever is the less. The problem is that the regulations refer to the Conditions of Employment (Standard Minimum Wage) Order 1989. That Order was revoked in 2001, it was revoked and replaced by the Conditions of Employment (Standard Minimum Wage) Order 2001. It is, therefore, a nonsense for a power in the hands of the industrial tribunal to be exercisable by reference to a piece of legislation which does not exist and which has not existed since 2001. Now all that is required is an amendment to the Calculation of Compensation Regulations, by deleting the reference to the 1989 Order and replacing it with a reference to the 2001 Order. That amendment should take



effect as from 1<sup>st</sup> July 2001, which is when the 2001 Order came into effect. That amendment is urgent and its retrospective effect is permitted by section 24 of the Interpretation and General Clauses Act, which allows where there is power to make subsidiary legislation, that legislation to have retrospective effect, except in circumstances which do not apply here. There can be no excuse for the Government's inaction in this. I was trying to be helpful by pointing this out in a supplementary to a question on compensation limits. Instead of the Minister welcoming the points and saying he would look into it and redress the defect, if I was right, it was a matter for him, he launched into a tirade by accusing me of raising an issue which was irrelevant to the original question. It is another sorry example of a Minister shirking his responsibility.

**HON CHIEF MINISTER:**

Point of Order. Look, the Point of Order is that the hon Member is not telling the truth in this House. Yes, he is not, he is misrepresenting and he is distorting the previous statements of a Member of this House, and that is the classic subject matter of a Point of Order. The Hon Mr Feetham launched no tirade, has done nothing of the things and said nothing of the things that the hon Member now falsely attributes to him, hence the Point of Order. What the Hon Mr Feetham did was to correctly point out to the hon Member that he was unsighted on the subject matter of his supplementary, that it did not arise from his original question, he should not be asking supplementaries that do not arise from the previous answer but that is a matter for Mr Speaker, and that as he was unsighted on the matter he could not give an answer on his feet. But if the hon Member would write explaining the matter to him, he would consider. Now who could possibly accurately represent that as launching a tirade and as another example of the Government's refusal to provide evidence. It is a shameful distortion, misrepresentation first in order to then distort it, of what the hon Member said.

**HON J J BOSSANO:**

Point of Order. Is exercising the value judgement that what the hon Member was saying is shameful, is that something that is permissible or not? I want to know so that I can start calling everybody shameful and not have Points of Order.

**MR SPEAKER:**

Well, I think the Point of Order does not arise from the use of the word "shameful" but the use of the word "the tirade" arising from that word.

**HON D A FEETHAM:**

My recollection in fact is that Mr Speaker ruled on the point, and Mr Speaker ruled that his supplementary question did not arise either out of the original question or my answer to it. Therefore that it was not a proper supplementary question. Mr Speaker has already ruled on this particular point.

**MR SPEAKER:**

I do recollect. This sort of Point of Order, that is why the rules, Erskine May and Standing Orders require that any Point of Order relating to the accuracy or misleading of Members to be in the subject of a motion. We cannot possibly conduct a trial right now, of sorts, as to who said what, when, three months or six months ago and expect the Chair to rule on the accuracy or otherwise of the statements made, or the Point of Order taken. It has to be done by a motion. That is why, because otherwise we are conducting a trial right now of the events that occurred at the last or the last but one question time.

**HON CHIEF MINISTER:**

Mr Speaker, the Government is happy to submit to whatever process the Chair advises for the handling of Points of Order. But it is not the Government that brought into fashion the taking of Points of Order in this House, it is the hon Members who leap up to their feet, throughout all the Government Ministers' speeches. I agree. If Mr Speaker would like to see Points of Order brought in writing by motion, the Government thinks that a jolly good idea and we will do it. We will now bring two against Mr Licudi, we will bring a motion later on in this sitting on both the incidents involving the Hon Mr Licudi here this morning.

**HON F R PICARDO:**

I am just concerned from the point of view of Parliamentary practice, that we are going to find ourselves in a situation where Members who want to accuse other Members of misleading the House will simply, and I will take my cue on this from the Chief Minister, rise and say, "Mr Speaker a Point of Order, the hon Gentleman is misleading the House". Mr Speaker will say, "you must do so by motion". Then the other Member will say, "well I will, he is misleading the House therefore I will bring a motion". Then nothing will happen. We have had these exchanges across the House a number of occasions and when tempers cool, there is no need to bring motions. I think if we make our Points of Order in a more temperate manner and not accuse Members of misleading the House, but perhaps even of being inaccurate, which would still be a fair Point of Order, then we would not find ourselves with our Parliamentary knickers in such a twist.

**HON CHIEF MINISTER:**

I agree entirely with what the hon Member has said. My complaint is not that it should be done one way or the other, I have no preference. My preference actually would be that

Members just drop and revert to the practice of not that many years ago, when Points of Order were not regarded by Members as a legitimate Parliamentary tool for simply interrupting the speaker at the time. It always used to be the case. I have no preference for any particular procedure for handling of Point of Orders. Indeed, my preference is that the need for the procedure should not arise. All I am saying is that from the Government's perspective there has to be a methodology, or a non recourse to Points of Order, one or the other, that applies to both sides equally. In other words, the hon Member, particularly one or two of them that are more inclined than others to leap to their feet, should not think that they can rise to their feet to interrupt Government speakers to make a Point of Order, and therefore, this is the bit like one makes a point to a jury, then the prosecuting or defence counsel objects, the judge orders you to withdraw but of course it has been said and it is out there. I think that is the point that the hon Member is alluding to and I agree with that, but that has got to apply to both sides. In other words, no Member of the House should get to his feet to make a Point of Order and articulate the point before the Speaker has been able to rule as to whether it is a Point of Order, because then one has already said it, which is what the hon Member Mr Picardo has said. I agree, all I am saying is that the Government feel, I hope that nobody thinks that this point is unreasonable, that the Government feel that what is sauce for the goose should also be sauce for the gander, and that therefore we should both take the same approach to Points of Order, us when they say things which we think are objectionable and them, when they think the hon Members opposite say something or rather think that something that we say is objectionable. It is only a question of deciding what the proper methodology is and then both sides adhering to it.

**HON F R PICARDO:**

With respect if I might just for a moment, whether goose or gander, I think the issue here that I was trying to make is that misleading the House is not the only Point of Order. There are

many other Points of Order which are fair to make. In this debate in particular, which is the debate I think which brings the most Points of Order out in the course of the debate, I think that the Government does have a mechanism which is not available to Opposition Members, which is obviously that the mover has the right to reply on behalf of the Government in respect of anything which might have been said on the Opposition speeches which may not be proper, or which they may take the view that is not proper. Whilst on the Opposition Benches, once Members have spoken once, they cannot speak again, like the rest of the speakers, and then mainly during the course of the debate to point things out on a Point of Order, not a Point of Order about the House being misled. If that is the point that must be done immediately by motion rather than by springing to one's feet, and I can feel myself surely about to breach my own remarks as soon as he starts speaking, and saying the House is being misled. I think we need to be conscious of that.

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

If I could rise again, this is precisely what I was fearing. That the hon Members may have in mind different rules for different Members of the House. As I have just understood what he has just said, he says, "ah, no, no, but whether one should be subject to the general rule that one does not do this, depends on whether one has a future opportunity to speak in the debate". Well, as the Government always has the last word on almost all Parliamentary procedures, whether it is on motions that we bring, or whether it is on Bills, or whether it is on questions, answers, as the Government almost always, through Parliamentary procedure that we have not invented, has the last word, in effect what the hon Member is saying is that there should be one rule for the Government and a different rule for the Opposition. That would not be viable in the Government's perspective.

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

Unparliamentary language is unparliamentary language, whether it is a Member from the Government who is speaking or a Member from the Opposition who is speaking, in whatever debate, in Question Time or at any other time. Unparliamentary language, for example, is another Point of Order that can be taken. In fact, I am sure that there will be many opportunities taken when the Chief Minister replies. But what I am saying is that every Point of Order we have had in the past day and a half has been misleading the House and that is what we need to move away from in my view.

#### **HON C A BRUZON:**

With the greatest respect to this House, I would like to remind myself and my hon Friends in this House that the people of Gibraltar elected us into this Government and we have received from them the title of "Honourable". May I suggest that we use less the procedure of Points of Order and show respect to each other when we want to say something, and use the expression "would the hon Member please give way?".

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

With the greatest of respect to the hon Member, I simply do not share the sentiment underlying that characteristic intervention, which leads people to think that the behaviour of this Parliament is such as to do some sort of disservice to the electorate of Gibraltar. Look, the behaviour in this Parliament is a good deal more edifying, a good deal more constructive and a good deal more respectful, and a good deal more serving of the interests of democracy than is the practice in almost any other democratic parliament in Europe, and certainly the House of Commons. The hon Member just needs to turn on his television on Tuesday afternoons, or Wednesday afternoons of Prime Minister's Question Time, to see the circus spectacle, to know what I am

saying. So he will forgive me if I do not share the sentiment in his not untypical contribution that somehow we are misbehaving and doing a disservice. I do not believe we are, I think we have from time to time the occasional blow out, which is not bad for Parliamentary democracy let me say, and then we have a much more constructive Parliamentary atmosphere than prevails in many, many Parliaments, in many democracies, who claim to be much more developed and much more sophisticated than ours.

**HON C A BRUZON:**

A hundred wrongs do not make a right.

**MR SPEAKER:**

May I have the last word? There is no doubt every Member in this Parliament is there to do his or her best for the people of Gibraltar, their constituents, and I have obviously no doubt, human nature being what it is, we all tend to get carried away sometimes in our endeavours to do our best. That is where the rules come in, so that we do not get too carried away and that is where the Points of Order come in. To make sure that everyone complies with the rules and that is where I come in to make sure the rules are observed and complied with. Going back to the Points of Order, I think all Members are aware and should be reminded, Points of Order are not intended to be interjections merely to get in your word in the other man's or other woman's speech. They are meant to point out areas where Parliamentary rules have been infringed. The most common ones being used of unparliamentary language, which I believe I am quite capable of dealing with there and then, and that should be put to an end. The other one being misleading Parliament. Now misleading Parliament does entail an examination of facts, entails an investigation of what was said, what was intended and what was objected to. Something which cannot possibly be conducted on every occasion there and then, a case in point being today. I do have a recollection of the supplementary question which the

Hon Gilbert Licudi refers to, and I do recollect the Hon Daniel Feetham saying that he had no notice of the question and that if the hon Member wrote to him he would look into it. So I do recollect that, so in that context I do not recollect any tirade from the Hon Daniel Feetham. Again, that is based on my recollection and my recollection may not serve me on every occasion in every instance. So where any Member wishes to raise a Point of Order on misleading, I believe the proper course is he should rise and just put a marker down and say that he takes issue with the misleading statement, and leave it at that, short, crisp marking of the point, allowing the person who is making the statement to retract or go on and justify in the context of his statements, and then the person who has made the allegation of misleading should be prepared to come forward with a motion. It is no good interjecting and raising allegations of misleading and then forgetting about it.

**HON CHIEF MINISTER:**

Well, the Government's agreement is of course not necessary for compliance with Mr Speaker's rulings. We are all bound by Mr Speaker's rulings regardless, but we are certainly delighted to go along with that steer.

**MR SPEAKER:**

Are Opposition Members equally delighted with that? Does the Hon Fabian Picardo have any objections?

**HON F R PICARDO:**

I would not dream of objecting to Mr Speaker's ruling.

**MR SPEAKER:**

He does express some reluctance.

**HON F R PICARDO:**

Not at all, I think Mr Speaker has set out exactly what is the position.

**MR SPEAKER:**

I am obliged. Can we get back to the Hon Gilbert Licudi?

**HON G H LICUDI:**

Mr Speaker, I am grateful for your helpful words and I am happy to be guided by your recollection and stand corrected to that extent. On a more general point as regards employment, the total number of jobs as at October 2007 stood at 19,696. One of the largest industries in terms of number of people employed is the construction industry, which employed 2,486. Last year we have seen a slight increase in the number of Gibraltarians in that industry. The overall trend, however, continues to be a decline of Gibraltarian workers in percentage terms. This still suggests a lack of sufficient training opportunities and a loss of essential skills in Gibraltar. Indeed, the Minister for Employment acknowledged this in answer to Question No. 38 of 2008, that he was aware of the declining numbers of Gibraltarians in that industry, when he said, "yes, indeed I am. For that reason we are reviewing the skills requirements in our training centres and we are doubling our efforts to produce the skills that are required". Firstly, let me say that I find it strange that a Minister should acknowledge a decline in numbers when he should have been aware of the October 2007 figures. Be that as it may, the Minister acknowledged that there was a problem and committed his Government to a doubling of the efforts to produce the skills

that are required. That suggests that greater resources are going to be dedicated to this. Indeed, in the Minister's contribution in this debate, he has emphasized the need for training on these and other skills. Unfortunately, that doubling of efforts and that apparent commitment is not reflected in the figures which are part of the Bill which we are debating today. Under his own Department there is no provision for training, there is an entry as a contribution to the Gibraltar Development Corporation which states, employment and training £1,000. That cannot be considered as doubling of efforts. There is a separate provision for training under the Department of Education and Training. The forecast expenditure for this year is £540,000. The amount allocated for next year is £551,000, an increase of a mere £11,000 which is exclusively accounted for by salary increases. The number of people engaged in training is due to remain static at 15. So much for the doubling of efforts as the Minister put it.

Mr Speaker, I turn to traffic matters. This is, I regret to say, one of the biggest failings of this Government during the last year. We note that there has been a recent change in ministerial responsibility for traffic. We hope that that does not reflect any view that the failings are down to the former Minister, and we have been assured that that is not the case. The failings are the failings of the Government. The Government has simply not got to grips with the nature and extent of the problem. It is almost as if they were hoping that the problem will disappear. Not only will the problem not disappear, it is bound to get worse. The congestion and gridlock, yes, gridlock, that takes place almost on a daily basis at the northern end of Gibraltar, will inevitably be exacerbated with the works to Devil's Tower Road, the new road and tunnel to the airport and the East Side development. All this could have been avoided and should have been avoided. All that was required was a little foresight and planning. Regrettably, this Government seems to act when the crisis is already upon us. It appears to be in the business of crisis management rather than proper and efficient traffic management. Of course, the northern end of Gibraltar is not the only area that suffers from this problem. Traffic congestion at

the south district is also a daily occurrence. People, I am told, sometimes take three quarters of an hour from the south district to town, a mere one and a half miles or so. That is unacceptable and, of course, once in town the nightmare of looking for a place to park begins, with an inadequate number of parking spaces available and private car parks generally full relatively early in the day. In last year's Estimates, £100,000 was earmarked for traffic enhancements. It is nothing short of incredible, given the problems that we have had, that out of that £100,000 only £26,000 is forecast to have been spent last year. There can be no possible excuse for this and it is clear indication of a lack of interest by the Government in this area and we hope that changes. There are signs of changes, because of the inclusion in the Estimates for this year of £400,000 under that particular Head, which is certainly welcomed and we welcome on the Opposition side of the House. But it is also noteworthy that under road improvements and new roads, only a token sum of £1,000 has been allocated and it does not take a genius to realise that that will not go as far as it needs to go. For years those on the Opposition side have been urging the Government to get to grips with the problem. My predecessor, as Shadow Minister for Traffic, Lucio Randall, who I have not been fortunate enough to share these benches with, has raised on numerous occasions the issue of the Dudley Ward Tunnel as one step towards alleviating the problem. In typical fashion, the Government have refused to listen to those pleas. In his contribution to last year's Budget session, Mr Randall pointed out that the tunnel had been closed since 18<sup>th</sup> February 2002. He expressed mixed feelings about Government's commitments to re-open the tunnel and said, I quote, "I hope 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". It is with much regret that I have to say that Mr Randall, not only has not been proved wrong about the opening of the tunnel, but those prophetic words about traffic chaos have in fact materialised. The Hon Mr Britto in his contribution this week has described Dudley Ward Tunnel as a key section of our road network, his words not mine. A key section which has remained closed for six years. When did they

discover that this was a key section of our road network? We have been telling them for years and they have just realised this. Why is it that this Government does not listen to obvious concerns? Not just from the Opposition but from the population as a whole. Why is it that this Government refuse to recognise an obvious problem when it is staring it in the face? The answer is simple and has already been alluded to by Mr Picardo. All these decisions are taken by one man and one man alone – the Chief Minister – and when the Chief Minister is running around playing at Clerk of Works or Project Manager, or Assistant Architect of the Leisure Centre, as he has proudly announced, the rest of Gibraltar has to wait patiently and suffer as a result of a total lack of confidence, it seems, in Government Ministers and officials. That is the reality of political life in Gibraltar.

Mr Speaker, on transport let me start my comments by referring again to the words of my predecessor Mr Randall, who started his own contribution on transport last year with the following encouraging words, "I note that the Gibraltar Bus Company proposes to acquire three mini low buses for use with routes in the 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 documents". Neither Mr Randall nor residents of the upper town area, will be pleased by the fact that one year on and nothing has happened to bring these buses into service for this route. All that has occurred, as we understand it, is that a road test was carried out with a clearly unsuitable vehicle which would not go up Prince Edward's Road, leaving the Minister and officials having to get off the bus and walk. Is this the seriousness with which this Government handles Gibraltar's affairs? How can we possibly have confidence in their ability to solve Gibraltar's problems, when they cannot even choose the right bus? I have already tackled the Government in Question Time on what I consider to be the appalling state of disrepair of many of our bus shelters. It really is quite disgraceful. It is also embarrassing to have tourists who enter Gibraltar by the land frontier and wish to take the bus, to be confronted with a bus shelter which, the last time I saw it, was in a filthy and derelict state, as if it was a shelter from the

second world war. A former Minister for Transport earlier this year promised that there will be a programme of replacement of the bus shelters during the course of this year. I have not seen anything in the Estimates which reflects this but await anxiously the fulfilment of the Minister's promise, of which I will regularly remind the new Minister. I would also urge the Minister to consider installing bus shelters at the various bus stops which do not currently have bus shelters. I have seen myself elderly persons and children waiting at bus stops in the rain when they could have been under a bus shelter. The former Minister also said that a maintenance contract for bus shelters had been granted to a private company as from January of this year. I have not seen a single instance of such maintenance or works and most bus shelters are in a disgraceful state. Perhaps the Minister can explain at some point what maintenance has actually taken place pursuant to that contract. Dealing with bus shelters, I cannot resist mentioning the bus shelter that has been placed on the wrong side of the road at Market Place. Despite what the Minister may say, a bus shelter on the opposite side to the entrance of the bus, where the public has to cross the road in front or behind the bus to access that bus, is most certainly one that has been placed on the wrong side of the road. It is also an inescapable fact that the buses operated by the Gibraltar Bus Company cannot access the northernmost bay. The former Minister for Transport has given us an interesting and novel explanation for this. He says that this has not been designed as bus stops but as a bus terminal. In answer to Question No. 179 of 2008, he said that the two southernmost bays, the ones with a shelter on the wrong side of the road, are for use by the Gibraltar Bus Company, and the northernmost bays were designed, and I quote, "for use by smaller coaches operated by the tourist trade". The Minister clearly forgot two important facts. Firstly, there is a bus stop sign adjacent to the northernmost bay. Secondly, in each of the four bays there is written on the floor in large, bright yellow paint, the words "bus stop". It seems somewhat strange that it should say "bus stop" on the road and on the sign, when the bay is only for use by coaches operated by the tourist trade. One would be forgiven for thinking that a bus stop is a place where a bus that

transports members of the general public stops. It seems the position is different in Gibraltar. Either the Government knows best and can educate us on these matters, or simply they do not know how to admit when they get something wrong. I have a sneaky suspicion that the latter proposition may be the correct one. Before I leave the area of traffic and transport, there is one further point to be made on parking spaces. Last year the Hon Mr Netto announced that 400 extra spaces would become available, I quote, "during the current year", with the completion of car parks at Willis's Road, Sandpits and New Harbours. Regrettably, none of these spaces, as far as I am aware, have become available, although we have been told this morning, I understand, that some of them will become available very shortly. But this is an example of a commitment, a statement given last year, that these would become available during that last year and that commitment not having been fulfilled. It is yet another example of promises that do not come to fruition within the appointed or the stated time, as the long suffering purchasers of Waterport Terraces know very well.

Mr Speaker, I will deal with youth, sport and leisure together. The creation and maintenance of sports and leisure facilities is vital to the whole of the community, but in particular for our youth. I have already welcomed the opening of the King's Bastion Leisure Centre. The Centre has been the subject of delays and an escalation in costs, but it does provide facilities which we did not previously have in Gibraltar and that must certainly be welcomed. I have also welcomed, in the past, the additional sports and leisure facilities at Bayside. Dealing with those facilities in last year's budget, the then Minister for Sports and Leisure, the Hon Mr Vinet, stated, I quote, "a fitness gymnasium and archery range will come into full use in the next few weeks". I have visited and used the Bayside facilities on numerous occasions but have yet to see a fitness gymnasium and archery range. Perhaps the Minister can enlighten us whether these in fact actually exist or whether it was simply an illusion in the Minister's mind. A further announcement was made by the former Minister last year which also appears to have been an illusion. He said, "with the completion of the new

facilities at the Bayside Sports Centre, the planned improvement to the Stadium's old sports hall will now be able to get underway. Works on painting et cetera have already commenced and we intend to complete that project with repairs to the flooring during this financial year". I ask where have those improvements gone? Certainly not in the old sports hall. The interior of the hall has not been painted. Repairs to the flooring have not taken place. The wooden flooring is cracked and is, in my view, in a dangerous condition for users. The old sports hall has been neglected and is in a worse state than it was last year. I do welcome the provision in the capital expenditure of the Gibraltar Sports and Leisure Authority under works and equipment of the sum of £200,000. Having said that, maintaining the current facilities is not and can never be enough. The Government must be striving to create additional facilities wherever and whenever there is a need for such facilities. Additional paddle tennis facilities and a second full sized football pitch are needed, and it is disappointing to see that no provision whatsoever has been made in this year's budget for this, despite what I believe to be a promise or some sort of commitment in January of this year by the Minister for Sports, for additional paddle tennis facilities. It is regrettable that that commitment, what I believe was a commitment, has not seen its way to the figures. I say it is regrettable because I know that the hon Member, Mr Reyes, generally believes what he says and that he is personally committed and gives a lot of his own time, even when he is not performing official functions, and from the Opposition side I thank the Honourable Minister for his efforts. I should also say that I agree with the hon Member's, the vast majority of the hon Member's contribution. I would also like to join him in his appreciation of the work of volunteers and the hard work put in by his staff. I would also extend that to comments made by other Ministers about the commitment of their own staff. There are, however, two points in the Minister for Sports' contribution with which I would take issue. Firstly, he mentioned that the boathouse was not yet in full use. The snagging still has to be completed as we were told by the Minister. These facilities have been ready for one year. Why has it taken one year for the snagging to be completed? In fact,

snagging not completed even after one year. The same applies to defects in the paddle tennis courts which I pointed out to the Minister both privately and in this House. These matters need to be redressed as a matter of urgency. The second point that I will take issue with in his contribution, is that he said that the Government will be maintaining the financial provision to enable participation in international competitions. The Minister pointed out that £130,000 was allocated for sporting societies and £150,000 specifically for international competitions. The estimates, show that the forecast expenditure for last year is £170,000 and £174,000 respectively. This means a reduction, effectively, in this year's budget of a staggering £64,000. That does not amount to maintaining the financial provision.

I end with a few words on our youth. Firstly I would like to again applaud the work of the Youth Service in programmes to assist many youngsters, whether it be by educating them about the institutions of the European Communities, or by arranging cultural visits and exchanges. I fear that a budget of £45,000 for operational expenses is woefully inadequate and this should be reviewed. It is fair to say that the vast majority of our youth are well behaved and law abiding citizens. It is nevertheless regrettable that we appear to have a rise in juvenile delinquency, with inadequate measures in place to provide those persons with the guidance and tools they need to become lawful and upstanding citizens. There are many groups in Gibraltar who do voluntary work with our youth and disadvantaged members of our community. All those volunteers deserve nothing but the highest possible regard and praise. What they need is facilities and resources. We would suggest that a greater effort must be made by Government in this regard.

One other topic which has concerned our youth this year is the question of the legal age for buying alcohol for consumption of alcohol and tobacco. During the course of his New Year's address, the Chief Minister said, "the drinking and smoking ages will be increased". Not may be increased but will be increased. On 23<sup>rd</sup> January this year the Government issued a press release announcing the result of a consultation process on this.



It said, "all non Governmental organisations that have participated in the process have overwhelmingly welcomed the proposed increase". The press release added that 153 out of 161 teachers agreed with the increase. In the light of this and the Chief Minister's statement, it was quite extraordinary for the Minister for Justice to then appear on a television debate and say that the Government had not taken a decision. He repeated that yesterday and in his contribution he said, "there are issues to be considered and there is a debate to be had, and a review of drinking habits will be carried out". The press release issued on 23<sup>rd</sup> January 2008, stated "the Government has today announced that the Ministry for Families, Children and Youth Affairs and the Ministry for Justice have concluded the consultation process on whether the legal age for alcohol and tobacco consumption should be increased from 16 to 18". So in January of this year we are told that the consultation process has been concluded, those were the words, have concluded. Now we are told there is a debate to be had, and there is a review to be carried out. Why then did the Chief Minister make the announcement, that same announcement, in his New Year's message when the consultation process was on-going and no decision has been taken? We would hope that this is not a case of the Minister for Justice undermining the credibility of the Chief Minister. We would say that the Chief Minister's credibility, already low as a result of so many broken promises, almost low enough as a result of so many broken promises may have been further dented by that episode. The public now knows that any announcement made by the Government and the Chief Minister in particular, needs to be taken with a huge pinch of salt. But all is not lost. The Government and the Chief Minister have the opportunity of redeeming themselves. They should start by putting in place the announced reforms of Parliament, so that they are made more accountable and Parliament is made more relevant for the general public. They should continue by abandoning their policy, what I believe to be their policy, of being as unhelpful as they can with the Opposition, and of always trying to justify the unjustifiable in their press releases as they invariably do. They can end by showing, occasionally, a little bit of humility and by owning up to their mistakes and

correcting them. Perhaps I am expecting a bit too much from this Government. I have no doubt, however, that if they accepted our advice, Gibraltar as a whole would benefit. After all, that is precisely why we are in politics, to work for the benefit of Gibraltar. At least, that is the commitment on the Opposition side of the House.

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

Mr Speaker, this Budget will have been a huge disappointment to many sectors of our community. Businesses and householders will see their electricity bills go up, they will see their water bills go up, petrol will go up at the petrol pumps and social insurance will also go up. The tinkering that the Government have done, ostensibly to help the lower paid, will mean very little in practice given that the lower paid now have to pay more for water, for electricity and for petrol. This is the tenth time that I stand to address this House for a Budget session. I do so as the Government is on the verge of committing Gibraltar to a massive expenditure project in relation to the new air terminal. There is clearly a huge policy difference between the Government and the Opposition as to how we would proceed in relation to this matter. The Opposition side of the House has already indicated its preference for the expansion of the existing air terminal, as opposed to the project that the Government has in the pipeline. Indeed, on present indicators, Government plans are a leap in the dark. I will have more to say on this issue later on.

Before I move on to my Parliamentary portfolio of trade, industry, tourism and heritage, as is customary there is one other issue which I would like to touch upon. Considerable time and effort has been expended by the Government to convince us all that Gibraltar has been decolonised. We are not convinced. In our written submission to the Foreign Affairs Committee of the House of Commons, we homed in precisely on this point and we asked them to clarify the matter beyond any doubts and with no equivocation. Decolonisation in international

law involves a change in the status of a territory. That is to say, a transformation from being a colony to no longer being a colony. There is nothing to suggest the international legal status of Gibraltar has changed as a result of the new Constitution. This change must take effect not only in the nature of the relationship between the colony and the colonising power, but in the actual legal status of the territory itself. How that relationship is described or perceived is, therefore, not the central issue in the debate. Someone I met in the street put it this way. They drew an analogy between a couple who live together but are not married. The relationship between the two will practically be the same as if they were married, they will share the attributes of a married couple, they will share a home, they may even have bought it together, they may have children, a joint bank account and a family car. It may even be described as a modern relationship, but in the final analysis the fact remains that the status of that couple remains unmarried, no matter how many adjectives are used to describe the relationship between the two. We trust that the matter will be cleared up in due course without qualification or equivocation.

Mr Speaker, a considerable portion of my Budget address of last year was devoted to issues of planning and development. There is plenty more to say again this time round. For many years we have been pressing the Government on the need to update the 1991 Development Plan. We have said many times in the past that it is normal for such a plan to have ten years duration, and for it to be replaced in that time period. This means that the existing 1991 Plan, which is still in place today in 2008, should have been replaced in 2001. We are now seven years too late and still counting. The Minister responsible told the House in his address of last year that the Plan had gone through, I quote, "a long process of deliberation". In the context of what I have just said this must be the understatement of the year. In August of 2007, the Draft Plan was published and a public consultation exercise commenced. The last we have heard again this morning is that as a result of that consultation, there may be now a new exhibition and then the Plan will go to the Chief Minister for final approval. So the saga goes on. In

one of its documents the Plan says, "it is recognised that the quality of design and the environment is important to the community". Buildings and spaces are the backdrop to people's lives and the creation of positive environments, or a practical means of improving the quality of life of our community. I could not agree more, but let it be understood that it is the Government that have not behaved in accordance with the principles that their own Draft Plan now preaches. It is precisely the Government that have conducted themselves as if buildings and spaces do not matter. It is the Government that have behaved as if improving the quality of life of our community does not concern them, and it is the Government that have converted Gibraltar into one massive building site, by giving permission for large scale, unbalanced and uncontrolled construction, all over the place at the same time. The Government have systematically destroyed the face of Gibraltar as we knew it. They have the audacity to repeat, as if it somehow exonerates them, that all development is taking place under the 1991 Plan, when they know full well that this Plan is no longer suited to the conditions of Gibraltar today. The Government have said in the past, and they have said it again this morning, that they attach great importance to the planning process. The facts speak otherwise. They have taken too long to update the Development Plan. This is not a reflection of importance; it is instead a reflection of the opposite. Indeed, if Government had given any importance to the planning process we would not still have only a Draft Plan seven years too late. The reality is that they have put in the developments and the construction first, to be followed by the Plan later. In this way they have pandered to the interests of developers and put the cart before the horse. While on the subject of development and planning, I have to reiterate that the Opposition have serious concerns as to the manner in which former MOD land and property is being allocated. In response to these criticisms the Minister said last year, "what Government is 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". I propose to show that the Minister's statement does not stand up to scrutiny. There were 19 single

dwelling and seven blocks, or multi-dwellings, listed in Government Press Release 85 of 2004 dated 22<sup>nd</sup> April 2004, regarding the MOD lands deal. The Government have failed to show any consistency in the manner in which they have allocated these properties. Four of the 19 dwellings were not put out to tender at all, so the value to Gibraltar was not maximised. St Bernard's House, Lancashire House, Suffolk House and Surrey House were all exchanged for Rosia Cottages as a consequence of the decision to site the Nelson's View development on the Rosia Tanks site. An estimated £3 million of revenue to Gibraltar was lost in the process, quite apart from the money that the Government have had to pay out to help the owners with their moving costs, with legal fees and with stamp duty. We already know that Lind House was sold for just over £1 million at the end of 2004. This was put on the market some months later in 2006 by its then owner for over £4 million, and given an estimated development value of £15 million. Again, the £1 million that the Government obtained in respect of the original sale, can hardly be said to be maximising the benefit to Gibraltar. In some cases MOD properties have not gone out to tender on the open market at all, contrary to what the Minister stated in his address. In fact, the different approaches used by the Government when dealing with different properties has only served to confuse and annoy prospective purchasers. Therefore, while the ex MOD units at South Pavilion were sold to the highest bidder, the units at Rosia Court were sold by the Government on a fixed price basis. While the 12 units at Sandpits House were sold on a fixed price basis, the units at F Block in Naval Hospital Road were sold to the highest bidder. There have clearly been different policy decisions adopted on the procedure to be followed when dealing with different multi dwellings or blocks that previously belonged to the Ministry of Defence. There are all sorts of unexplained anomalies in relation to the manner in which former MOD property is disposed of by the Government. We have highlighted in the past the case of the New Aloes. We made the point that it was completely demolished by the successful tenderer in order to make way for a four storey mini block. The announcement of the sale of the New Aloes was made in

December 2004, and this was on the basis that the successful tenderer and family had to live in it. Another MOD property, Rock Cottage, was advertised for sale in May 2006. It was eventually sold for £1.3 million. The form of tender for this property also stipulated that the successful tenderer and family had to live in it. The problem is that both properties were awarded to the same tenderer on the condition that he or she had to live in both houses. This is nothing short of a farce. It is something that needs to be addressed again in the future to ensure that it does not happen again. There has, therefore, been a marked lack of consistency in the policy of the Government in relation to the manner in which they have disposed of former MOD property. Indeed, prospective tenderers for F Block in Naval Hospital Road, had to sign and agree a condition which stipulated that they authorised the Royal Gibraltar Police to release details of convictions if the RGP were requested to do so by the Government or any authorised company or agency. This appears to be the first time prospective purchasers of ex MOD property have had to give their consent in this way, just because they want to buy a home. When questioned in this House the Government did not seem to be aware that this was happening. It seems very odd that such a condition should exist, of purchasing a comparatively small three bedroom flat, when it has not existed for all those people who have purchased much larger and expensive MOD properties in the past. Another area where policy is not clear cut is of the resale restrictions. The units at South Pavilion, for example, were sold without resale restrictions. As a result of this, some of the houses were put on sale at a considerable profit shortly after the tender award. In other cases like Rosia Court, resale restrictions have been imposed. These are further examples of the inconsistency that I mentioned. People are entitled to clarity, consistency and simplicity when it comes to the disposal of former MOD property. The facts show that they have had none of these things. The Government is responsible precisely for creating a cloud of confusion and a lack of clarity. It is significant to note that the Government have raised about £20 million to date from the sale of properties on the MOD 2004 release list. It is clear that they could have raised more.

In relation to heritage, I only want to say at this stage that we will judge the Government by what they do, rather than by what they say. The Minister responsible reminded the House during his contribution, of their commitment to heritage and repeated the four corner stones of their policy. This is presumably the same commitment and the same corner stones that they had before they destroyed the Rosia Tanks in order to build a residential block which could easily have been sited elsewhere. As I said, we will judge them by what they do.

I move on now to tourism. During his address the Chief Minister said that Joe Holliday had been Gibraltar's best ever Minister for Tourism for the remarkable growth in tourism he has presided over in the last 12 years. This statement is not supported by the facts nor by the Government's own statistics. The Government's official figures show, both in terms of visitor numbers and in terms of tourism expenditure, that the last 12 year period has actually experienced less growth than the previous eight years before 1996. In other words, tourism expenditure grew by 320 per cent from 1988 to 1996. It grew by only 27 per cent from 1996 until 2007. The same growth trend is apparent in the number of all visitor arrivals taken together, irrespective of whether they arrive by land, by air or sea. In other words, the rate of growth was higher from 1988 to 1996 when it was 70 per cent, than it has been from 1996 to 2007 when it was 47 per cent. It is significant to note that when the new Tourism Minister proceeded to give the House a whole string of comparative statistics yesterday, he conveniently forgot to mention the two most important ones. The first is the actual total sum of money spent by tourists, which is why we want them to come here in the first place, and the second the actual number of visitors themselves. The undeniable fact is that in their period in Government they have had lower growth, both in terms of visitor numbers and in terms of tourism expenditure, even though they have spent more money to attract tourists. The hon Member also forgot to take the marketing spend in each period into account. From the financial years 1997 to 1998 to date, the Government have spent about £10 million marketing

Gibraltar. The higher growth in the previous period from 1988 to 1996, was achieved even though considerably less money was spent. However, the hon Member is forgiven because as he himself said, he is on a learning curve on these issues. However, he should not accuse others of being selective in their use of statistics and then proceed to do so himself. Therefore, the lesson to be learnt is that it is important when making a sweeping claim of success, to check it against the facts. Having done so it is obvious that the accolade which the Hon Chief Minister so graciously bestowed on his former Tourism Minister, which was repeated yesterday by his successor, is totally misplaced.

I will move on now to tourism marketing. The marketing budget for this coming financial year is £900,000 which is the same as was spent in the last financial year. We have often accused the Government of not making the best use of these funds in order to secure value for money for Gibraltar. We have also long maintained that the Government have a haphazard and inconsistent approach to marketing Gibraltar abroad. It should be recalled that only a few months ago, after telling this House that he was not concerned at the drop in coach arrivals to Gibraltar, the then Minister for Tourism went on to organise presentations, precisely to coach tour operators, at hotels along the Spanish Costa Del Sol. This proved to be too little too late and the number of coaches fell again last year, as they have done year on year since 2000. Indeed, the downtrend continues into the first few months of 2008. It is news to me that the reason for this drop is because of the downturn of the tourism market in Spain, or because more people are booking holidays on line. These can be added to the catalogue of excuses that the Government have offered for this drop over the years. The decision taken by the Government to return with the Gibraltar stand to the World Travel Market is even more remarkable given what they have stated in the past. In 2004 the Government said that they had decided that there should be no dedicated Gibraltar stand at the World Travel Market. It should be recalled that sending four persons, including the Minister, to this event in 2003 had cost the taxpayer nearly £72,000. In explaining the

decision not to have a stand, the then Tourism Minister said that the numbers at the event were down, that the location was a disadvantage and that transport links were not adequate. He said, I quote, "I think there was a general feeling that the move from the centre of London to the Excel Exhibition Centre has been a mistake". Gibraltar, therefore, did not have a stand at the event in 2004, 2005 and 2006 but the Minister did visit the exhibition with some Gibraltar industry players continued to be represented. It therefore came as a complete shock to many people, including some in the industry, that the Government decided to reverse their policy and participate again last year. The policy was changed even though the World Travel Market was still at the same venue, with the same disadvantaged location and the same inadequate transport links that the Minister had complained about in 2004. The Government have shown an inconsistent policy approach towards the World Travel Market by again participating at the last one reflected in a cost to the taxpayer of nearly £70,000. This is about 7.5 per cent of the entire tourism marketing budget and it has been spent on one event alone. Let me say at this point that I cannot possibly understand how the new Minister can confirm the value of the existing marketing strategy on the basis of the one event that he has attended. I have no doubt that tour operators would prefer to attend a marketing event held by Gibraltar to one held by Malta. Given the millions that have been spent over the years, we have never said that the Ministers do not know how to throw a good party. It is regrettable to point out that this same huge marketing budget has not generated better results for our hotels, which is the purpose of the exercise. The 2007 Hotel Occupancy Survey which the Minister referred to yesterday, showed hotel occupancy was down to 58 per cent, which is the lowest since 2000. This figure includes everyone staying at hotels. That is to say, it comprises people on business, crew changes for ships and other persons who are not in Gibraltar for a holiday. In respect of the tourism component only, which is where we would measure the value for money return on the investment, occupancy has fallen to 27 per cent, the lowest since 1999. The average length of stay for tourists is now down

to 2.9 nights, which itself is the lowest since 1996. Whatever the Minister may say it is clear that something is not working.

I move on now to tourism by air and to matters of civil aviation generally. I wish to start with the air link between Gibraltar and Madrid. In his address of last year, the then Minister for Tourism said that the 14 flights a week that then operated to Madrid, were an important milestone for Gibraltar's tourism from Spain. He added that 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. The House knows well that the 14 flights to Madrid a week became seven and that the seven have now become two, although it is expected this may increase during the summer months. It is unfortunate that the enhanced marketing campaign in Madrid that the Minister highlighted last year did not obviously yield any results judging by the reduction in flights and in passenger numbers. Certainly, whatever projections may have existed for this service, it seems that they have been based more on wishful thinking than on hard facts. It is clear that a disproportionate amount of money has been spent already, and indeed continues to be spent, in matters connected with this route. This is a good example where the value for money component in tourism can be measured very easily, particularly in relation to the arrangements that were put in place by the Government for the transportation of passengers to and from La Linea by bus. The running costs of this operation from its inception until the last date for which figures were made available is £96,000. The cost of the buses was £224,000 and the cost of what they call terminal 2 was £391,000. This means a total cost of just over £700,000. This expenditure in that time, which does not include marketing in Madrid, resulted in 36,265 passengers flying to Gibraltar, of whom 3,219 used the bus to La Linea. It means that it cost the Gibraltar taxpayer £221 to transport each arriving passenger from Gibraltar a few miles to La Linea, which is much more expensive than it cost those passengers to fly from Madrid to Gibraltar in the first place. The Opposition continues to have serious concerns about the financial viability of this operation.

There have been a number of other disappointments too. The reduction in flights to Madrid, the withdrawal of the air link to London Heathrow and Manchester, although we hear that is going to come back again in the autumn, the collapse of the Fly Gibraltar project and the non starter by Fly Europa of flights to London Stansted. It is against this background that we have urged caution from the Government before they embark on the huge expenditure plans for the new air terminal. However, I can see from the estimates of the Improvement and Development Fund at 103(6)(g), that under new air terminal building, what looks like a token entry of £1,000 has already been put in place for this financial year. Recent months have given rise to a number of unforeseen circumstances also in relation to the manner in which airlines operate to and from Gibraltar. I have touched on some above, obviously there are more. The decision by EasyJet to purchase the slots held by GB Airways at Gatwick Airport has already had some negative repercussions. As the House knows, a number of persons who were employed by GB Airways were made redundant by the new operator. EasyJet has made it quite clear, for example, that it will not have engineers based in Gibraltar and that these will be brought in from Malaga as and when needed. More redundancies followed when Monarch Airlines changed their ground handling operations in order to match those used by EasyJet. These consequences were not foreseen by the Government. Therefore, even though new arrangements have been put in place whereby airlines flying to Gibraltar pay less in fees, through what is in effect a subsidy, no advantage appears to have been taken to secure the employment levels that existed under the old arrangements. The second area where the consequences have not been foreseen is on the question of commercial cargo carried by air. GB Airways was traditionally, and almost exclusively, the main carrier of air freight to Gibraltar. The decision to sell their slots at Gatwick Airport to EasyJet has created a serious shortage of air freight capacity, because EasyJet does not carry freight. The capacity for cargo in the two GB Airways flights has now been reduced to one British Airways flight, which is in addition a smaller aircraft with a smaller cargo hold. This is causing considerable problems to our business

community, particularly those who depend on the time critical, urgent delivery of goods such as medicines, small electronic items, spare parts and hi-tech businesses in our finance centre, who rely on prompt logistical support for their systems. Courier companies and their clients have also been particularly badly hit. It is clear to the Opposition, as we have previously stated, that this situation has also had an obvious impact on the delivery of mail to Gibraltar and is at the heart of the problems being faced by the Post Office, with the unreliable arrival and subsequent distribution of backlogs of mail from the UK. In reply to the Minister's comments of this morning, of course EasyJet and GB Airways are completely different airline models. That is understood. This is so obvious that it was not worth mentioning. However, the freight issue seems to have caught many business people by surprise, that needs to be said. Certainly, given the healthy subsidy that is being paid out, the Government should have ensured, at least, that EasyJet did not leave local businesses in the lurch. The Government bombards us with propaganda every so often which tells us that we have state of the art facilities. It is regrettable that on this one issue of air freight we have not even got the basics right. There was no forward planning. In relation to the other point made by the Minister this morning, regarding the level of service, it needs to be said this follows the experiences of two groups of school children who travelled with the airline. On one occasion a child that had travelled from Gibraltar to the UK was refused permission by the airline to return from the UK to Gibraltar on the basis of the same passport. In the end the matter was resolved. The second issue relates to another group of school children who had booked flights which included a meal under British Airways, which EasyJet refused to honour and also refused to refund the difference for the meal. So, it has got nothing to do with the type of airline that they are but with their level of service to serve their clients. The Hon Mr Holliday, obviously, more well travelled than I am, should know better. In terms of the subsidy itself, the contribution by the Gibraltar Government to the aerodrome running expenses was £2.8 million. There are estimated to be a further £2.8 million this coming financial year. This compares extremely unfavourably

with projected income levels of only £600,000 in landing fees for the coming financial year, and would represent a negative balance on this item of £2.2 million if the financial targets are met as projected. It is significant to note in this context that in the first quarter of 2008, air arrivals from the United Kingdom are already 3,358 down from what they were at this time last year.

I propose to move on now to the question of tourism statistics. Let me start by saying that the hon Members are in no position to lecture the Opposition on statistics. Those who were in this House at the time will recall that some years ago now the figure for tourist expenditure in Gibraltar shot up disproportionately, supposedly on the back of an influx of visitors from Morocco staying at hotels. The accuracy of those figures were defended by the Government at the time. When the matter was investigated in depth, it was found that Moroccan workers arriving on the ferry each week were being included as tourists staying in hotels and given a certain proportion of expenditure. This had completely distorted the tourism expenditure figure for that particular year. The Government then had to eat their words and the survey was corrected. It is therefore a bit rich for the Minister to suggest the Opposition is distorting statistics. The figures that we use in our analysis are supplied by them, they are the official figures of Gibraltar. But there are other anomalies that remain. It has already been established, for example, that the number of cruise passenger arrivals, that the number of persons on board the ship, are not those who actually disembark and come ashore to visit Gibraltar. In order to please the new Minister for Tourism, I will mention once more the fact that non Gibraltarian frontier workers continue to be included in the figures for arrivals by land. This has always been the case but I have to say the Minister has missed the point completely. The point is that more visitor arrivals by land could simply mean more frontier workers and not necessarily more tourists. An example I have used in the past is that 5,000 frontier workers coming in once every weekday would translate into 1.3 million visitors by land over a year, and this assumes that they cross only once a day and on weekdays alone. The Chief Minister told the House in his address that there were 5,438 frontier

workers, regardless of nationality, and this does not include illegal or unregistered labour. This would have an obvious knock on effect on the tourism expenditure figures in general. Indeed, the 1.3 million excursionists from Spain in the example I have used, even though they are not tourists, would translate into nearly £30 million of tourism revenue into the economy. The point is that neither the tourists nor the revenue exist in reality. However, this year I can offer the new Minister a new calculation which can only serve to throw further doubt on the official figures. I will start from the premise that there are, indeed, 9 million visitor arrivals by land and that all these 9 million are tourists, which is doubtful for the reasons I have already explained. In order to arrive at the 9 million visitors, it means that 17 people a second must cross the border non stop, 24 hours a day, during morning and night for 365 days a year including weekends. This is simply not physically possible. It is highly unlikely that Gibraltar has received 9 million visitors coming in by land, shown in the latest survey, irrespective of whether these are tourists or not. Therefore, the time may well have come to take another look at the way in which we compile and calculate many of these statistics.

I conclude my address on behalf of the Opposition by thanking the Clerk and the staff of the Parliament for their assistance and guidance over the last year and thank you too Mr Speaker.

**MR SPEAKER:**

Does the mover of the Bill wish to reply?

**HON CHIEF MINISTER:**

The mover of the Bill not just wishes to reply but needs to reply to respond to much of the nonsense that has been heard from the Opposition over the days. Particularly from the Hon Mr Licudi who has just walked in. I fear that this year his colleague and challenger for the party leadership, Mr Picardo, has taken

the view that discretion is the better part of valour and has modified his usual vitriolic tone, I suspect in the certain expectation that Mr Licudi would do it and get the flack back instead of him. Very astute of him indeed. So I fear that this year the Hon Mr Licudi is going to be occupying quite a lot of my time. But, alas, he will have to sweat on it for a while longer because due to Mr Speaker's engagement on other business this afternoon and therefore cannot sit, we will start with my reply tomorrow morning.

**HON F R PICARDO:**

Mr Speaker, if I may, just for the purposes of setting on the record, when the Chief Minister indicated that the Budget session was to take place on 27<sup>th</sup> May, I wrote to Mr Speaker on the assumption that that was the week when the matter would carry on informing him and the Clerk that I would be away as from tomorrow 6<sup>th</sup> February. So I just wish the Chief Minister to know that I will not be here to hear his reply, not as a discourtesy to him, although of course I am sure he intends many discourtesies to us in the course of his reply, but because I had already made prior arrangements.

**HON CHIEF MINISTER:**

But they will all be deserved.

**HON F R PICARDO:**

I have no doubt that he thinks that. For that reason I will not be in the House tomorrow when he rises to reply.

**HON CHIEF MINISTER:**

Let me assure the hon Member that it will be far from my inclination to assume that his absence was intended as any discourtesy. I know that amongst his many defects, gratuitous and unnecessary discourtesy is not necessarily one of them. But he has many others which I will point out. But, of course, as I said, there is no need for him to fear, he can go in peace because, frankly, his contribution this year has been so soft and unchallenging that I was not intending to say very much about him this year. I mean, the odd thing will slip in almost inevitably, but he can go in the certain knowledge wherever he is going that his ears will not be glowing red whilst he is away from the House. I wish him a good trip wherever he is going.

**ADJOURNMENT**

**HON CHIEF MINISTER:**

I have the honour to move that the House do now adjourn to Friday 6<sup>th</sup> June 2008 at 10.00 a.m.

Question put.                      Agreed to.

The adjournment of the House was taken at 12.10 p.m. on Thursday 5<sup>th</sup> June 2008.



**FRIDAY 6<sup>TH</sup> JUNE 2008**

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,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism  
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 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 F R Picardo

**IN ATTENDANCE:**

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

**THE APPROPRIATION ACT 2008 (Continued)**

**MR SPEAKER:**

The Hon Dr Joseph Garcia sought the indulgence of the House just to clarify a point in his statement yesterday, I will allow him to.

**HON DR J J GARCIA:**

With Mr Speaker's leave, there is one, I am sorry, I am not accused of misleading the House and have a motion brought against me or anything like that. I have realised there was an error in a figure that I gave yesterday. This was the figure relating to visitors by land which I have now gone back and checked my original handwritten notes and calculations, which should have been 17 persons a minute, or a person every three seconds rather than 17 persons a second. I wanted to come back to the House and correct that for the record and for Hansard.

**HON CHIEF MINISTER:**

Mr Speaker, in rising to reply for the thirteenth time to the hon Members' budgetary contributions opposite, if my defence sounds well worn, heard before, twelve times before and tread over old ground, it is because that is the case that the hon Members give me to answer. The same old, tired arguments. We have heard from the hon Members the same speeches as they give every year, making the same points as they do every year, with the aggravation this year that even new Members on the Opposition side do not bring new arguments and fresh thinking and new intellectual dynamism to the political debate, to the critique of the Government, they limit themselves to re-reading their predecessor's speeches and regurgitating them. Of course, they all take their lead in this from their, at least for the remaining time being leader, the Hon the Leader of the Opposition, because he is the greatest exponent of that device. The Leader of the Opposition's Budget speech is really a tape recording of last year's speech, with the aggravation this year that not content with limiting himself effectively to a historical trawl of historical statistics, this year he thought he would go a bit further back and go back six years all the way back to 2002. He always starts his Budget speeches the same way, "I will not deal with the figures just heard". Of course, for those of us who know him, we understand that that means 'there is nothing really that I can say to criticise the Government's handling of the economy, and because there is nothing that I can really say to criticise the Government's handling of the economy, because even I have to acknowledge that it is performing magnificently, and I have to give a Budget speech because it is an obligation on the Leader of the Opposition, I will give a historical rant and let us see if in doing so I can make the man who is presiding over that magnificent economic performance, look like somebody who does not know what he is talking about when he talks about the economy'. That is in a nutshell the entire psychology of the Leader of the Opposition's address to this House on the Budget year after year after year, and this year has been no exception. Not a solitary word about the state of the economy, not one. No serious economic commentary at all.

Indeed, as a commentator of the current political situation, the Leader of the Opposition has chosen to make himself politically irrelevant. Little wonder that Mr Licudi, and I suspect others on the Opposition side of the House, expect that he will not be the leader at the next election.

So he delves back into history, he finds a couple of mis-statements on my part.

**HON J J BOSSANO:**

Well, at least he admits them.

**HON CHIEF MINISTER:**

Well, he should not giggle until he has finished hearing me because not even that does he get right. Not even his attempt to attribute mis-statements to me does he get completely right for the purposes that he seeks to put them in the debate. So I suggest he holds his giggling back for a couple of hours. He asked what is a supposed economist. I do not know what a supposed economist is but I will tell him what a supposed economist is. A supposed economist is a self appointed economic expert. The self-appointed is reflected in the word "supposed" and the economist is reflected in the "self-appointed economist". Look, I understand, although I understand he has done other things too and I do not know what exactly he has, but I understand the Leader of the Opposition has a degree in economics. Well, somebody who has a degree in history is not a historian. Somebody who has a degree in law is not a lawyer, and somebody who has a degree in economics is not an economist. Being an economist requires a little bit more than having a degree in the subject. On that basis there would be hundreds of economists in Gibraltar. To the extent that he professes particular skill, which he then does not demonstrate, it has to be said, in his political acts, but to the extent that he professes skills as an economist beyond merely having a

degree in it, he is a supposed economist. If, on the other hand, he wants to say that he is obsessed with figures and statistics and gets a kick in life out of number crunching, not that he gets that right either, but if he wants to say that then he could claim to be a fanatical, amateur statistician. But I am not going to attribute, on the basis of what I have seen in this House whilst I have been in it and he has been in it, to the Leader of the Opposition the self-appointed label by him of economic expert. I do not believe him to be anything of the kind. So let us examine his examples of what he says is evidence either of not knowing what I am talking about, or deceit and that in some cases there is circumstantial evidence for the latter. Let us examine his examples to see who is ignorant or deceitful.

Of course, since he does not adjudicate against me as between those two, I will not adjudicate against him as between those two either, leaving the same jury as he invited to make the decision against me to make it against him as well. So let us see whether he is an economist or a supposed economist. Yesterday, or rather on Monday, when my bladder had exhausted its strategic reserve capacity and I went out to pee, he said "I hope he is still listening, otherwise he is not going to learn anything". The sad reality, as I have already suggested this morning, is that there is nothing to learn from listening to his speeches like the ones he gives in this House. I have no doubt that there is much that anybody can learn from anybody else, and I have no doubt that politics aside, in many aspects of life, there is much that I could learn from him, although he would not admit it, there is much that he could learn from me. But from listening to his Budget speeches in this House, there is nothing for anybody to learn, nothing whatsoever. I wish it were different but it is not. The first tactic is to accuse me of being unpleasant to him or try to curtail his right to examine the Government on economic issues, which he then hastens to add is neither my right and is also his duty and obligation. All of this before I have said anything at all. He then, on the basis of his own invented pre-emptive accusations against me, then uses that as a pretext to do precisely that himself in the next paragraph and from then on. He then proceeds to insult and when I respond, as I am

going to do now, he uses this next year to say that I was very unpleasant to him last year. That is the now well-worn template of the Leader of the Opposition's approach to Budget addresses in this House. But look, I know he does not think very much of our intellectual ability, but one would have to be very thick not to have worked that out already. He said, "I propose to demonstrate to him", that is to me, "why and how the figures he used in 2006 and repeated and defended in 2007 are and were incorrect". He has done nothing of the sort, nothing. Which of the figures that I used in 2006 and 2007 has he even attempted, let alone succeeded in demonstrating, were incorrect? None. It is just a statement thrown into the wind at the beginning of his speech to try and add to the colour of the Chief Minister's incompetence on economic matters, which he then either himself forgets or expects everybody else to forget during the length of his rant and trawl through history. It is true, I suppose I should defend the Leader of the Opposition against the natural conclusion of anybody listening to this speech that has not heard previous speeches, in order to defend the Leader of the Opposition from that terrible fate, I should say that it is true that my statement in 2002 that the MOD was not included in GDP was an incorrect statement. But look, that has been clarified, aired and established since then on a variety of occasions. I do not want anybody to think, listening to him yesterday, that it had taken him, this economic wizard, six years to discover that I had made a simple error, the reason for which, by the way, I will now explain. But of course, even his criticism of that error, which of course as an error per se is a justifiable criticism, but the use to which he has put that criticism and the language that he has used to describe it are, as I will demonstrate to him, not open to him to use. Unless he thinks he is as incompetent as I am. I mean, people listening to him yesterday must have asked themselves, 'does this man who claims to be the alternative leader of Gibraltar today in 2008, why does he refer to statements in the House in 2002 to make a political case about the state of the economy today?' I said a moment ago that the matter had been cleared up and, indeed, he himself acknowledged that the matter had been cleared up because in answers to questions since then, for example, Question No. 532

of 2004, I have made it clear that the MOD forms part of the build up and the make up of GDP. So the House has proceeded, almost since 2002, in the knowledge and on the basis and in the understanding that those twelve words were mistaken. He may be interested to know, or not, although of course I accept full responsibility for what I say in this House, but he well knows that not everything that Ministers say in this House is of their own origin, that there are officials there who prepare briefs. Of course I take full responsibility for what I say in this House and I always have done. But when a Minister or an Opposition Member, and we will have plenty of opportunity to discuss during the rest of the morning some of the ridiculous statements made by Opposition Members. I do not know whether that makes them all incompetent and not knowing what they are talking about. I suppose the Leader of the Opposition will have to end up concluding that he is surrounded by incompetents, none of whom know what they are talking about, by that standard. So whilst taking full responsibility for the statement because I made it, that does not mean that I am the source of the error and, therefore, the mis-statement on my lips means that I am incompetent or that I do not know what I am talking about. The error was neither incompetence nor deceit, but rather, erroneous advice given to me by a very senior official, and I will explain the context in a moment, who had overlooked the practice which had indeed once been, as I said it was. Namely, that the MOD was not included in GDP, and this official that gave me this brief simply overlooked, inadvertently, that the practice had changed in 1991. See, he does not remember. Until Mr Fell came in the late 1980s, 1990s to give advice, subsequently confirmed by Mr Mansell, that it was inappropriate to exclude MOD from GDP, it had indeed always until then been excluded from GDP. He does not remember? Well it was his Government that approved the change. Or does he not remember that all the calculations of GDP going back to 1972 were recalculated in 1991 to include the MOD because they had all been excluded? He does not remember? Is his memory failing him as well as his economic competence? Well, let me remind him, because the brief is not wrong. Historically in Gibraltar there had been two schools of thought among

statisticians who were historically, it has to be said, recruited from the United Kingdom, as to the treatment of MOD expenditure for GNP/GDP estimation. Originally, the ODA statisticians concluded that all MOD expenditures were outside the local economy and, consequently, wages and salaries paid by the MOD locally were treated as factor incomes from abroad, and expenditure by UK based personnel as export services. That is to say, treated as exogenous to the economy. The MOD featured, therefore, in GNP and not in the GDP estimate. This treatment was first questioned, to their credit, by the local statisticians in the very late 1980s after he had arrived in office. It was subsequently reversed in 1990 on the advice of Mr Fell of the ODA, who took the view that MOD expenditure within the local economy should be treated as being domestic to the economy and hence included in GDP. The Government of the day, that is his, accepted this recommendation and the national account figures were adjusted back to 1972 and projected forward on that basis. That is the inescapable reality of the position. So, let us now, in the context of that breaking news, refresh our memories on what the Leader of the Opposition thought fit to say on the matter on Monday evening.

I quote him from a transcript of his speech here the day before yesterday. "In terms of national income and subject to final validation", he said quoting me, "in terms of national income", correctly quoting me in my 2002 Budget, he said, "in terms of national income and subject to final validation, the GDP in 1999/2000 was £418". That is GDP and not GNP. He then went on to make the most extraordinary statement that one could imagine. "The hon Member" he said, meaning me, "I am sure is aware that the GDP excludes the Ministry of Defence which is not part of the domestic economy". Well of course, neither I nor anyone that I know have ever been aware of that. "The hon Member", again referring to me, "however, was so sure of what he was saying that he repeated it later on", quoting me, "the MOD which as I say is not included in the GDP calculation but would be included in the GNP when they merge that MOD is calculated to amount to about 10 per cent of national income". So, this extraordinary statement that only a

fool like me could possibly believe is anything other than economic nonsense, was for the first two or three years of his first term actually so. Namely, MOD was not included in GDP. So when the Leader of the Opposition tells this House that it is the most extraordinary statement that one could imagine, what he presumably means is that it is the most extraordinary statement that one could imagine after 1991, but not before 1991. Before 1991 it was economic gospel. When he says that neither I nor anyone else that I know has ever been aware of that, the word "ever" is extra because what he should really have said is that no one that I know has believed that since 1991. Then, of course, all of this to demonstrate, as he said, that such a statement could only be made by someone who has not got "the foggiest idea what he is talking about". Well the fog only descended in 1991. Before 1991 he was as foggy as he thinks I was in 2002. I do not know whether he was deceiving or just unaware. The statement that I made, of course, is incontrovertibly factually incorrect. Of course in 2002 it was factually incorrect to state that MOD was not included in the GDP estimate. As I say, far from being extraordinary it used to be true until not that much far before the statement was made. As I say, my error was attributable to erroneous advice, the circumstances which I have described, of an official who simply had overlooked the change in 1991.

The second point that the Leader of the Opposition had been making when he was addressing related to this use of the word "merge" between GDP and GNP, when they merge I had said, and he corrected me by saying that GDP and GNP never merge. The first thing that first year economic students get taught, I suspect in their first lecture in basic economics. Of course, he is wrong unless he is deciding on what I meant by the use of the word "merge". Of course, there are uses of the word "merge" which, of course, make my statement as foolish as he attributes to it. The GDP and GNP are indeed different estimations, one includes the other but they are different, and they never meet. Merge in the sense of the two calculations ever touching the same point or the same figure is statistically, mathematically impossible, because one includes things that the

other does not and there are adjustments. But the word "merge" was not used in that sense. Of course he can choose to place whatever interpretation and meaning he wants on my words, to then build what other case of stupidity on my part he wants, but it is all nevertheless based on the false premise of a false interpretation on his part. The word "merge" was used in the sense of become, assimilation, and GDP can be adjusted and indeed is adjusted to provide the GNP measure. Indeed, before 1991 it was precisely the case that the difference between the two was that GNP included MOD and GDP did not. Of course that was not the only difference. The MOD was not the only adjustment that would have to be made to the GDP figure to reach GNP. But GNP they are a derivation of each other with adjustments. GDP, yes, he does not need to grow again. So it seems to me that the Leader of the Opposition could have, could I suppose have attributed to me a degree of stupidity, or not knowing what I was talking about, I suppose he could have done that, for not immediately knowing that the advice that I was being given was wrong. Yes, I suppose he could have said, look why do you not know everything that there is to know, so that when senior professional advisers give you advice that is mistaken, you, who therefore have got to be cleverer than all your advisers, immediately know that you are being given advice that is wrong. Well, frankly, I have not any difficulty conceding that at that time I was not familiar with the intricacies and details of the GDP calculation. There is nothing wrong with that, that is not evidence of not knowing what one is talking about. But whatever the significance to be drawn from the fact that I did not immediately know that I was being given false advice, he should not rush to draw against me, for reasons that I will now explain to him. Failure to immediately know when one is being sold a pup is not something that he should use as a yardstick, as I will now caution him, in this matter to describe me in the terms that he has, because in 2002 when I uttered the words which were false, the Leader of the Opposition was himself unsure of the position. He may now say, six years later, that it was the most ignorant, extraordinary, ridiculous, all words that he has used, to say that but in 2002 when I had said those words and he stood up to respond to me, he said, I quote from Hansard, "and

therefore whether we are talking about GDP or GNP, which he told us did not include the MOD, which I am not sure he is right about". Well it cannot have been so foolish, so stupid, so ignorant if the Leader of the Opposition could not immediately say that it was wrong, and the most that he could say about it was that he was not sure whether I was right. In other words, there was something to be unsure about. That is the context of the debate. That is the context of the matter and the use that he has sought to put this point to, apart from being six years and therefore irrelevantly historical and out of date, is not even consistent with his first reaction and response to it when it was germane and current and relevant in 2002. This is typical of the Leader of the Opposition's debating style in this House. First he gives a Budget address which is void of all substantive content, and then he does a trawl and a rant through history changing nuances and spinning historical events for purposes which truth and fairness do not properly lend them at this stage. He has been doing that in this House for as long as I have been his political opponent in it.

So that was the first example. The second example, he then continued, but this was not the only example, though, that year of the misunderstanding of relevant statistics. I am quoting from him now, "we were told that the study had shown in the year 2000 that the tourist industry had grown substantially and accounted for a total income level of £107 million. In terms of employment it was alleged that tourism directly accounted for 2,300 jobs and that when account was taken of the relatively high employment multipliers for the industry, the total employment generated from tourism was at around 4,000 jobs". In 2000. So that is the statement of a fool, then in comes the expert riding his huge white stallion, "certainly", he carried on, "the figure at first sight looked extremely unlikely to be accurate". That he could immediately discover was immediately unlikely to be accurate. On the GDP MOD not included in GDP that he was not sure about. "The Employment Survey report for that year indicated that private sector employment, excluding Government agencies and similar entities, was around 8,000 bodies. The suggested level attributed to tourism would have

meant that it was responsible for 50 per cent of the private sector. The report itself analysed the £145 million of tourist expenditure contained in the report for 2001, which hon Members can actually see reflected in page 5 of the report for this year tabled last week", he continued and he carried on. "The input/output analysis says in terms of employment the direct effect is 1,853. Full-time equivalent jobs and the direct plus indirect is 2,760. When the induced activity is also brought back into question, the total employment opportunities supported by tourism is 3,498." That is when he then said that he was sorry that I had gone to relieve my bladder because if I had stayed I would learn something. Then he carried on about how I had accused him of not understanding Professor Fletcher's matrix and then he went on to say how he had written to Professor Fletcher, and Professor Fletcher had told him not that that was wrong, but something else that his extrapolation of increased final demand in tourism expenditure was extrapolatable into employment statistics in the way that the Leader of the Opposition was suggesting. Which is true and he need not have written to Professor Fletcher to ask him that. I am not saying he should not have written, I am saying he need not have written.

**HON J J BOSSANO:**

The hon Member said I was wrong and invited me to write to Professor Fletcher.

**HON CHIEF MINISTER:**

No, the Leader of the Opposition did not say that he was wrong on that point, because the thing the Leader of the Opposition describes as being confirmed to him by Professor Fletcher, is not the thing that he was describing to me when I went out to pee on Monday. The Leader of the Opposition should be aware that the 2000 model update indeed confirms the 3,499 direct, indirect and induced level of jobs. Done by the same Professor

Fletcher who wrote to the Leader of the Opposition telling him that he was right and, therefore, by implication I was wrong. Well, I am wrong, Professor Fletcher is wrong, the Government statisticians are wrong, everybody is wrong except him. So all the real economists are wrong and the supposed economist is right. The Leader of the Opposition should not, as he appears to do, treat the model as a measure of what will definitely happen. It is not. The model, that is to say, the model of the economy, is just that, a model. Its employment multiplier is a measure of employment opportunity, the employment multiplier is a measure of employment opportunity. Some job creation may materialise, some may not. The multiplier does not in reality work in a clinical, mathematical precise way. It provides an indication of job opportunities that may arise as a result of increased activity in any given sector. Of course, the Hon the Leader of the Opposition who wants to give everybody the impression that he is the expert and everybody else is not, insists on using the model and setting it up against actual statistics later produced in reality by the economy, to suggest that either the statistics are wrong or the model is wrong and one disproves the other. Completely inappropriate use of the economic model and inappropriate, given the nature of what an economic model is.

Next and as third example, he said that I went off to the Chamber of Commerce in 2003 and boasted that I had increased employment in three years, between 1998 and 2001, by no less than 9 per cent. Well, it is true. I did not quite understand whether he was accusing me of being boastful, which of course is always a fair criticism, even if the boast is true. I suppose it is spiritually unedifying to be boastful even of one's own achievements. Or whether he was suggesting that it was not true. It was true. We did increase employment levels between 1998 and 2001 by 9 per cent. It was not as some casual listener to the debate might have been led to believe, led but of course not misled to believe, that it was a case of picking a base from which to start counting in order to create a false impression. Since we arrived in office in May 1996, it is unlikely that our policies impacted on job creation immediately. I know

that a huge amount of Gibraltar, including most of the economic constituency, breathed a huge sigh of relief in the early morning of 17<sup>th</sup> May. Of that there can be no doubt. Nor can there be any doubt that many important businesses in Gibraltar that had started packing their bags, decided that in the event they would not finish the packing. All that is undoubtedly true, such was the degree of rescue that we perpetrated Gibraltar from in terms of its economic prospects as they stood in 1996, given it has to be said, for reasons extraneous to the Leader of the Opposition's handling of the economy, necessarily. But certainly many of his other policies were having that effect on economic prospect. But not even in that context can we claim that having arrived in office on 16<sup>th</sup> May, the figures for October 1996 were down to us or up to us. Look, magicians as we have been in developing and growing Gibraltar's economy, we cannot claim to have created jobs in six weeks, eight weeks or twelve weeks. So, the immediate 1996 figures, and probably also most of the 1997 figures, reflect the momentum, positive or negative momentum, whatever it was, that was built into the economy at the time that we arrived on 16<sup>th</sup> May 1996. In other words, a momentum that reflected the position as we inherited it. So let us see in that context whether it is me or the Leader of the Opposition that is guilty of selecting base figures to give the wrong impression. Using only the October figures, because for part of the period they were published for October and April and then after a certain period of time they were published for October. This is what happens to employment figures since he arrived in office in April 1988, in March. In October 1987 there had been 13,078 jobs. In April 1988, a month after he arrives, it had fallen to 12,995. Of course he cannot be blamed for that because that is the same momentum that he inherited as I have just alluded to I inherited in 1996. So he is not responsible for that. His policies, initially, appeared to have a sound effect on employment levels because by October 1988 they were up to 13,610. By October 1989 they were up again to 13,880, by October 1990 they were up again to 14,219 and by October 1991, they reached the highest level that they reached under his stewardship, which was 15,098. From then, he may want to consider to try and calculate what his first term was and what his second term was.

The political wags out there have written his political obituary in these terms. He had a jolly good first term and a jolly rotten second term. I do not know whether that is entirely fair but these employment statistics, perhaps irrationally and in a completely unscientific and unlinked way, would tend to suggest that. Indeed all this might be for a completely different reason and some of the reasons are known why employment statistics fell from that level. In October 1991 they had reached 15,098; by October 1992 they were down to 14,750; by October 1993 they were down to 13,521; by October 1994 they were down to 12,795; by October 1995 they were down to 12,713. October 1996, which was our first October in office, they were down again, hence the momentum, and then after six or seven months the GSD's arrival on the scene began to stabilise the figure. So some of the figures during 1997 and 1998 were up, others were down, then they were up and then they were down. But from April 1998 onwards we were definitively able to reverse the steep downward trend that we inherited and which I have just described. From April 1988 they went up every single year, October 1998 12,774; October 1999 up 12,963; October 2000 up 13,381; October 2001 up 13,931; October 2002 up 14,266; October 2003 up 15,419; October 2004 up 15,994; October 2005 up 16,874; October 2006 up 18,485 and October 2007 up 19,696. So I do not know what false impression the Leader of the Opposition thought that I was giving the Chamber of Commerce through what he described as the selective and convenience choosing of a starting base. What I was giving, as subsequent events have shown, was not only accurate at the time but indeed accurate as to what was going to follow it, which were all these years of continuous, uninterrupted and unrelenting job increases under the GSD Government to reverse the equally steep decline year after year that we inherited from him when we came into office in 1996. That is the inescapable reality so I do not know who is trying to deceive and who just does not know what they are talking about, we shall just have to let the same jury try us both. Mind you, if we listen to the leader of a rival political party to us both, we may both be damned, according to something I have read of him in today's Chronicle. Let me hasten to add, even on the basis of his unmeritorious

point that he would have preferred me to use a different base figure when I addressed the Chamber in 2003, not that mine was wrong or inadequate, but even if I had chosen to use the base figure that he said yesterday would not have been a convenient one, it was still a jobs growth of 951 people or 7.3 per cent instead of the 9.1 per cent. Not even then does it justify the point that he was seeking to make yesterday. Next he attempted once again, with equal lack of success because he has tried this before, to debunk the use that I, on the advice of statisticians and economists, make of the economically active Gibraltar figure, saying that they were a self serving device to always show full employment. An economic miracle he called it, a magic formula. The Leader of the Opposition is the one who does not understand what he is talking about. Or he understands it and tries to build fictitious arguments to try and serve his political purpose of the moment. In other words, it is again that I do not know what he is talking about or I do not know whether he is being deceitful, choice that he offered the electorate about me on Monday. I have to tell the Leader of the Opposition that he is wrong, that the statisticians stand by their figures and their significance in meaning and so do I.

In his Budget analysis last year, the Leader of the Opposition was critical of the analysis provided to the effect that 97 per cent of economically active Gibraltarians are in employment. He dismissed the analysis on the grounds that data from the Employment Survey and the Census could not be brought together as the former covers all employees in Gibraltar and the latter would exclude non resident workers. In addition, he claimed that the analysis is so derived that, no matter what the figure, this would always be 97 per cent in respect of such Gibraltarians, the so-called magic formula and economic miracle. It is true that in theory, and this may be his problem that he has still got his old university text books from so many years ago, frontier workers recorded for employment survey purposes, would not be enumerated on the Census, since this covers persons resident in Gibraltar on census night and if one is a frontier worker and does not live in Gibraltar, therefore one is not resident in Gibraltar, not physically in Gibraltar on census



night and, therefore, would not be covered or included by or in the Census. His argument, therefore, implied that Gibraltar frontier workers, of which there were 212 as at October 2006 Employment Survey, should not be taken into account when comparing census employment statistics with those of the survey. But the reality of it is, as opposed to the theory, the theory is right but the reality of it is that the vast majority, if not all Gibraltar frontier workers, and this the statisticians are 100 per cent confident of, are an exception because the reality is that most, if not all Gibraltar frontier workers, that is, most if not all Gibraltarians that live in the Campo, have a local address and keep a local address for official reasons, whether it is in their parents home, or in their sisters home or in somebody else. They would effectively, therefore, be included in the Census on census night even though they are formally and technically not physically resident in Gibraltar on census night. Nevertheless, applying the Leader of the Opposition's purist approach, in other words the theory and not the practice, the theory that he described rather than the practice that I am now describing, and the 212 Gibraltar frontier workers as at October 2003 had indeed been excluded, the percentage of economically active Gibraltarians would change very marginally from 97.1 per cent to 97 per cent. The second criticism was that the figure is always 97 per cent. This he has repeated this year. But this is not because the model is contrived to always deliver this answer, as he has suggested. It simply reflects the fact that given the size of the Gibraltar labour market and the most important factor of all for these purposes, that one of the principal variables, the unemployment statistic actually varies very little in respect of Gibraltarians, the results of the analysis would show that the Gibraltar population does indeed enjoy near full employment. This, however, does not have to be 97 per cent, but because of those variables that change so little, it is always going to be something very close to 97 per cent. Here is a table that demonstrates it. In 1988 the employees as of the October Employment Survey were 8,836. The self-employed census was 818. The unemployed as at October was 290. The total, therefore, of economically active was therefore 9,944. I say for the benefit of other Members of the House who may not

be aware, that the definition of "economically active population" is not just the people who are actually in employment but it also includes the people who are actively seeking employment. On the basis of those figures, therefore, the percentage of economically active Gibraltarians in employment in 1988 was, wait for it, this was the year he arrived in office, 97.1 per cent. What a coincidence. I do not suppose he was operating a contrived economic model, was he? But see, the statistics provide exactly the same result as now. In 1991, unfortunately, after three years of GSLP administration, the same figure had fallen to 94.2 per cent. In 1996 it had fallen, well it has risen from 94.2 per cent but still below the 97.1 per cent that he had inherited in 1988, to 96 per cent. In 2006 it was 97.1 per cent and in 2007 it was 97.4 per cent. The decrease in the employment between 2006 and 2007, together with the increase in the number of Gibraltarians employed as at October 2007, plus 195 according to the Employment Survey, results in an increase at the rate from 97.1 per cent in 2006 to 97.4 per cent in 2007. Historically, in 1988 the rate was identical to the 2006 rate, as I have just pointed out to him, although in absolute terms there were 1,510 less Gibraltarians in employment and 52 less seeking employment. But because in 1991 the rate fell from 97.1 per cent to 94.2 per cent, because the unemployment figures were at their highest between 1991 and 1993, this demonstrates, and I will give the Leader of the Opposition, I gave him the build up figures for the year 1998, in the same format I will give them to him for the intervening years that I have referred to. In 1991, 9,154, 815, 554, 10,526, 94.2 per cent. In 1996, 9,390, 818, 10,632, 96.0 per cent. In 2006, 10,346, 953, 342, 11,641, 97.1 per cent. In 2007, 10,541, 953, 312, 11,805, 97.4 per cent. I hope I have read those out correctly. Unfortunately, my own tables are split in two pages and I lose the column heading when I turn over the page. But they demonstrate that what has an effect on the 97 per cent or a variable of the 97 per cent, is in effect the unemployment rate. It is logical that it should be so. Next he said, how can there be full employment amongst Gibraltarians, 97 per cent of economically active population, when in subsequent years the number of Gibraltarians in employment rises. Aha, he says,

since Gibraltarians do not just materialise from thin air or from Mars, it proves that his magic formula and his economic miracle analysis must be right. How can there be a rise in year 2 of Gibraltarians in employment, if last year I told the House that in year 1 there was already full employment amongst Gibraltarians? Well, where did the ones that cause them to rise the next year appear from? Game, set and match. That is what anybody would have thought listening to him yesterday. All the people who think that he is an economic guru, and that think that I am an economic illiterate would have said, that is Bossano's twentysixth ace serve in this rubber. Not so. See, what the dangers are of listening to speeches on issues, or giving speeches on issues that one knows one's audience cannot be expected to be knowledgeable. But, I like to research my replies well. He is wrong, again, he is wrong again. There are a number of reasons why one can have effective or even actual full employment amongst economically active Gibraltarians, meaning those who have a job and who are looking for a job and in year 1 and in year 2 one can still have more Gibraltarians in employment than one had in year 1. That does not disprove, as the Leader of the Opposition suggested, that the statement that there was full employment in year 1 is necessarily wrong. It is just a statistically imperically non sequitur. For example, there could be more school leavers, more returning university graduates, entering the market, in other words, becoming economically active, becoming part of the economically active category than there are people leaving that category on retirement at the end of the working life. So, simple is it not? If in one year the number of Gibraltarians leaving the labour market is lower than the number of Gibraltarians entering the labour market at the other end, as students, as school leavers or returning graduates, presto, there is the thin air from which the extra Gibraltarians to put into the labour market next year have appeared. Surely such a concept and thought could not have been out with the grasp of the Leader of the Opposition's extensive economic expertise. Equally, there could be people, in order to be sexually neutral, although in reality it is likely to be mostly women, who decide one year that they suddenly want to get a job. How many of us do not know women, wives, sisters,

aunts, who suddenly say they have been out of work, they have not been working really for the last 10 or 15 years, and they want to get a job. Well, every such person is a newcomer without having come down from Mars and without having appeared from thin air. Every such person is a newcomer Gibraltarian to the numbers, to the ranks of economically active Gibraltarians. Why? Because last year they were neither in employment nor actively seeking employment. Therefore he is wrong in his analysis, he is wrong in the use to which he has put his analysis and he is wrong in his statistical failure to understand the model. Namely, that the relevant factor that determines the level, the relevant variable that most likely determines the level of the percentage of economically active population actively in work, as opposed to seeking work, is the rate of unemployment and because the rate of unemployment amongst Gibraltarians has been basically static, as we all agree here every year, at a very similar level, that translates statistically, logically into a percentage of economically active population more or less around the same parameter. Proved by the fact that in the 1990s when the unemployment rate went up of economically actively employed went down even though the number of jobs in the economy were, as I said before, even though the number of Gibraltarians in employment were more or less the same. That is the inescapable truth of the position as the Leader of the Opposition has stated it at length in this House. Not once but two years running now. Of course, his objectives in all of that erroneous assessment was to put back on the table the absurd, the equally absurd assessment, politically self serving but economically illiterate assessment, that the number of Gibraltarians who are "losing", to quote his words, their jobs to frontier workers, is rising and that there are lots of Gibraltarians, as he has been saying every year he told us when he thought he had proved, he had served his twentysixth ace, see, and this proves what I have been saying every year, not just now every year I have been saying it, he said. That this means that I have been right when I have been saying that the Gibraltarian workers are losing their jobs to frontier workers, by which, of course, he means Spaniards. Well, he is wrong on that as well, they are not and a basic

attention to some key statistics would tell him that he was wrong. I believe that he knows that he is wrong, so if I were sitting on the jury on this point, I would have no doubt which of the two options I would vote for on this particular case, because he cannot be that not knowing what he is talking about, either economically or on the proper assessment of statistics. So, to use his words, the circumstantial evidence on this point tends to point in the direction of the D word rather than the much longer phrase involving not knowing what one is talking about. If there were Gibraltarian workers who are losing their jobs to frontier workers every year, they would become unemployed but we know they have not become unemployed because the unemployment rate amongst Gibraltarians remains flat and does not increase. So how is it possible for the Leader of the Opposition to believe and then assert that there are wholesale losses on an annual basis of Gibraltarian jobs to non Gibraltarians, not that I believe that that is frankly a particularly edifying distinction upon which to analyse unemployment statistics. But as we have fallen into the bad habit of doing it that way, then I have no alternative but at least for the purposes of this debate continuing as if the other members of the working community in Gibraltar, the other British, the non Gibraltarian British and all the other people that live here as part of this community, somehow did not matter or did not have any role and it did not matter if they lost their jobs. He is only interested in Gibraltarian analysis, never mind all the other people, who by the way he should not forget are also voters on the electoral register, he needs to be a bit careful about the extent to which he focuses only on Gibraltarian workers. There are thousands of other British people in Gibraltar, who are not Gibraltarians, and which he insists on excluding from his economic analysis as if they did not matter to him. Anyway, since that is the basis that is the basis. So if the unemployment figures are not rising, what is happening to all these hundreds of people, all these 67 female retail workers and these 131 construction workers, where are they? They have not lost their jobs because if one loses ones job either one immediately finds a new one or one goes onto the unemployment ranks. Neither. They are certainly not in the unemployment ranks because we know that the unemployment

figures are static, the same more or less every year and they do not reflect the inevitable consequence to unemployment figures namely rising, if it were true that there are Gibraltarian workers "losing their jobs to frontier workers". Which is all, by the way, the fault of the Government because it does not protect Gibraltarians, see. This is the consequence of not having a pseudo-nationalist as your Chief Minister, that Gibraltarians are not protected in their workplace and only I, the Leader of the Opposition, know. Does he not remember Mr Baldachino as Minister for Employment, on this side of the House in Budget, saying "when we used to do", not the same, but when we used to raise the unemployment statistics saying, "but the hon Members opposite have to remember that there is now EU law and that Spanish people and other EU nationals have got the right to look for jobs in Gibraltar, and we cannot stop them so why is he blaming us?". All that is forgotten now, all that does not apply. The EU law remains the same, in fact it has got worse, but that all is forgotten. Now, we invent the fact that Gibraltarians are losing their jobs, fiction number one, in order to be able to blame the Government for failing to protect Gibraltarians workers, fiction number two, because when they were in Government they used to blame exactly the same phenomenon to inevitable EU law that they could not do anything about. That is the nature and quality of the Opposition Members' political debate, in and outside this House. He could say, if he wanted to touch on this area with some degree of potential accuracy, he could say if he wanted to, look, every time a foreigner, I prefer to say every time a non resident of Gibraltar, takes a job he is depriving a Gibraltarian, who almost certainly already has a job, but is certainly depriving him, perhaps, of the opportunity perhaps of moving to that job from the one that he has got. Of course, look, if the hon Member wanted to stop being Leader of the Opposition and a Spanish construction company had a job going and they gave the job to a Spaniard from across the border, they would be theoretically depriving the Hon the Leader of the Opposition of moving from being Leader of the Opposition to being in that job. That is not depriving. That is not causing the Leader of the Opposition to "lose his job", which is the language which he used when he formulated

his accusation on Monday afternoon. It is statistically beyond doubt that there is no significant, I cannot stand here and say of course that there is no single case, no, wait, because I am going to deal with each of his three examples as well. He gave three examples of this and then he said, "I could carry on giving him examples, does he want any more?". Well, he can give me as many examples as he wants because they all have an explanation and none of them are the ones, and he should know that they all have an explanation, none of which are the ones that he has used it for. If he was right and I was wrong, the unemployment statistics would have to be rising and he knows it is not the case. So he must know, he may not know what the explanation is but he must know that there has to be an explanation other than the one that he uses in this House, therefore knowing that it is not the explanation. If the explanation that he uses in this House were true, it would have to be reflected in a rise in Gibraltar unemployment and that is not the case. See, all to say that I have presided since 1996 over a reduction of the Gibraltar workforce in a number of areas in our economy and their replacement by frontier workers. Replacement by frontier workers means that this Gibraltar here has a job and he gets booted out of the job so that they can employ a Spaniard or some other foreigner in his place. That is what the word "replacement" means. Of course, if this man because of the Government's economic development is able to aspire to be more than just what he is in his job today and to be something else, and to move up and on in life, he may choose to give up his job on the construction site and get a job, for example, in some other sector of the economy. There is a lot of that going on thanks to the Government's excellent economic policy of social development xxxxxx. But that is not an example of Gibraltarians losing their jobs to frontier workers, nor of Gibraltarians being replaced by frontier workers. This too, I suspect, is taught to university economic students in their first lecture of their first term of the first year. There are more than enough jobs for economically active Gibraltarians. That is to say, for Gibraltarians who are actively seeking employment provided, of course, they do not aspire to jobs that they cannot satisfy the conditions of. Look, if I am an unemployed

Gibraltar person, and we know there are around 280 to 300 and something of them, some of those are unemployables, some of those are not looking for employment, and if they are, they are so choosy and selective that I suppose they want to wait until the office of Chief Minister is vacant to apply for it, and if they cannot get that job, they go round saying that they cannot find a job. No, what they mean is that they do not want to accept any of the many jobs that are going. That is what they mean. The Leader of the Opposition cannot come into this House and convert that syndrome, which I have no doubt exists, into the Gibraltarians cannot find jobs because the dreadful cross frontier workers are replacing them in the labour market. Replacing them in the labour market, the number of Gibraltarians in employment stands at a record level. How can anybody be replacing Gibraltarians in the market if with the other breath he says that they must be coming down from Mars, Gibraltarians, to get the number of jobs that they are occupying at the moment. We all know, do we not, that there are some jobs that Gibraltarians, particularly Gibraltar youngsters, do not like doing and there is no shame in saying that and the Government accept the challenge of creating different kinds of employment for them to aspire to, even though we believe that in the meantime they should take the jobs that they can get. We all know, do we not, or do we not, that young Gibraltar men do not like being labourers in private sector construction companies. They do not mind being labourers in the Buildings and Works Department or in the Government but they do not like being labourers in private sector construction companies. Does anybody deny that, because the construction companies come to me to tell me, when I say to them we are going to give preference in the tendering process to those construction companies that employ Gibraltarians, they say to me, "but Chief Minister we cannot employ Gibraltarians, they do not want to work with us". We also know, do we not, and I am glad of this, not that there is any shame or indignity in being a shop assistant, I applaud the fact that Gibraltarians girls should be seeking to aim as high as they possibly can in terms of their own betterment in life and their own job aspirations. But is it not true that Gibraltar young ladies do not like being shop assistants,

particularly in shops on Main Street? So is it surprising, in those circumstances, that Spanish and other EU nationals come across the border as dreadful frontier workers to be shop assistants in Main Street, to be labourers in private construction companies, is it not logical? But look, if the Leader of the Opposition knows of any Gibraltarian young man who wants to be a labourer in a local private sector construction company, please let him give me his name and particulars and I will see to it that his prospects of being employed by a construction company xxxxxx. If he does not, then let him stop making these absurd statements in the House in future years. That is a fair offer does he not think? The same with shop assistants. A fair offer, does he not think? I think so. He gave three examples which to somebody less steeped than him in the analysis of conflicting statistics, I acknowledge would have led such other sort of person to believe what the Leader of the Opposition says. But I do not accept that he believes it. He gave three examples. A fall of 131 in Gibraltarian male construction workers in the private sector between 1996 and 2006. I do not know if he is aware, but those are the actual figures when he gave the figure of 1996 and the figure of 2006, that is actually the figure he was quoting. Male construction workers in the private sector, excluding males presumably because females tend to be secretaries in the construction industry at least, and do not tend to work on the site itself. Indeed, he claimed, not only did he claim that 131 Gibraltarian male construction workers in the private sector had lost their jobs, he did worse. He said, "and in fact 131 foreigners had jobs in Gibraltar that in 1996 were giving jobs to our own people". In other words, the replacement argument. These are 196 jobs that were done by Gibraltarians and are now, because they have been displaced, being done by non Gibraltarians. This is simply not the proper interpretation of the statistics. Before I tell him why, let me just include the retail and wholesale example that he gave, which was the second example on the table. He said, "there are 54 fewer Gibraltarian females, retail and wholesale employees, and 64 more non Gibraltarian females", and he said "this is evidence statistically incontrovertible that what I have been saying all these years about Gibraltarians losing their jobs", thanks of course to the

Gibraltar Government, "to foreigners". The explanation is not amongst others, for reasons that I have just at length articulated and will not put the Leader of the Opposition through again, that these 131 male construction workers and 54 female retail workers have been out of work. These are not 185 people with a name and an address that have lost their jobs. No, because otherwise they would be unemployed. Where are they? Where are they on the unemployment statistics? What it means is that 185 Gibraltarians have moved out of the construction and retail sectors into some other sector of employment that they prefer, because if they were not already in some other employment, they would be in the unemployment ranks and we know that they are not. Some people switch jobs in other areas that they prefer. Young people do not take jobs that they do not like, and then there is the new this morning reason, that he knows that it is something that we have been giving cautionary notes about whenever we present the breakdown by nationality of employment statistics in the sectors, some employers simply get the classification of nationality wrong. Of course, if one is the UK British, human resources director of a company, or even a Spanish human resources director of a Spanish company, this distinction between Gibraltarians and other UK British, is not immediately logical. Indeed, there are many Gibraltarians who when asked what is your nationality rightly say British, because of course, Gibraltarian is not a nationality. There is, therefore, mis-classification and we have no idea what the error factor is, but it varies. We know it varies, yes we do know it varies, I will tell in a moment how we know that it varies. Therefore there is also the possibility that some of these people are still in the jobs that he thinks they have been deprived of since 1996, but they are now classified under British and not Gibraltarian. These are all factors that contribute to them. None of them is necessarily scientifically the explanation, but in combination they all contribute to the explanation. In the gambling industry, which was his third example, the numbers employed show a drop of 52 Gibraltarians in six months from September last year to March this year, 52 down. He went on to say, in the same period that 52 of our own people lost their jobs, 45 outsiders were recruited. Where are, in the unemployment statistics, these 52

Gibraltarians that his reading of the statistics suggest to him have, as recently as September last year, between September last year and March this year, a month and a bit ago, where are the 52 Gibraltarians that he told this House have lost their jobs and been replaced by 45 outsiders? Where are they? He has had the quarterly employment statistics, are they there? He has had the unemployment statistics to March, he knows they are not there. So he knows they are not out of work, he knows they have not become unemployed. He therefore knows that there has to be some other explanation for this. He may not know what the explanation is but he knows it is not the one that he gives. The Employment Survey, which admittedly only goes to October 2007 and therefore covers only one month of the six that he used in his example, which is September to March 2008, the Employment Survey suggests that eleven Gibraltarians, fewer, are employed in October 2007 than were employed in October 2006. It is in the answers to the questions that we give him from where he has derived this figure of the 52 that he has used as an example. A significant part of the explanation but not mathematically the whole, is that 32 Red plc dropped from 55 Gibraltarians on 31<sup>st</sup> October 2007 to 22 in March 2008. An error which they have committed because, in fact, they have been categorising their employees not on the basis of whether they are Gibraltarian or other UK British, but on the basis of residence, they say now. So query whether they ever had 55 Gibraltarians, because certainly they did not have 55 Gibraltarians that were resident outside of Gibraltar. What it suggests is that a lot of these people that we have been treating as Gibraltarian because they were described as Gibraltarian, really that was the figure of non residents, or rather of residents. Residents do not have to be Gibraltarians. Indeed, we now know that they are not, a large part of them, and we are trying to get clarification and the right figures from them. It would not provide the explanation for all 52, but it certainly provides the explanation for at least half. Then, of course, there are the other factors which also affect here. Other types of mis-classification and things of that sort, including the fact that many young Gibraltarians see jobs in the gambling industry as stepping stones, temporary jobs. Indeed my daughter amongst them.

They do not see a career job in some of these posts in the gambling companies. They see it as a first job whilst they find something else. There is a very high turnover but one thing is for sure, if they are not there now it is because they have chosen to move on to something else and not because they have been dumped on the unemployment heap by the gaming company to replace them with foreigners. That is for sure. On this scale at least, I am not saying that one or two for disciplinary reasons, I do not know, there may be one or two. I cannot say that there are zero in that category but, certainly, that is not the explanation for this.

So, that is the end of his case against me for not knowing what I am talking about. At least that is the end of his evidence. No doubt he will arrive at a different conclusion to whether the defence has rebutted his evidence or not. But that is it. On that flimsy, inaccurate case which contains many more errors by him than the one error by me, which is six years old, on that basis he tries to make the people of Gibraltar and this House believe that they have chosen for the last 12 years to head them, somebody who does not know what he is talking about. Of course, others will have to decide on the basis of having heard him and me, who it is that does not know what they are talking about. Every year he spins, yes, I am going to use the same language again, a fiendish and furtive web, yes, the two words that he thought that I was misusing, a fiendish and furtive web on the flimsiest of facts, on the basis that he throws the dust up in the air in the hope that people will not be able to follow his argument, will not know how to adjudicate on who is right and who is wrong anyway, but will accept his fundamental point which is that he is an economic wizard and I do not know what I am talking about. He has been doing that in this House for the last 12 years. It is a nonsense of course, but how does he explain then if he thinks that it is not a nonsense, how does he then explain that I stay stubbornly on this side of the House and he stays stubbornly on that side of the House? How does he explain that he is now the most frequently and heavily defeated party leader of all time in Gibraltar's democratic history? It has got to be one of the following three reasons, and he can take his pick but it has got

to be one of the three. Not because I say so but because there is not a fourth. If he can think of a fourth then, of course, he can choose between that one as well. First, that the people of Gibraltar simply do not believe him. Secondly, that they believe that he is more economically ignorant even than he thinks I am. That is a possibility as well. They accept his view that I am ignorant but think that he is even more ignorant. That would also explain why they carry on electing me and do not elect him. That is two. The third is, that the people accept his view that I am economically ignorant, accept his view that he is an economic wizard but still prefer to have Gibraltar led by an economically ignorant Chief Minister than by him. Those are the three possibilities so which does he think that they are? Which is the answer? It has got to be one of those three. I personally think it is the first. People simply do not believe him because they know it is not true. Why do they know it is not true? Because they look at the economy in the real life, in the real world, and say, "my goodness, if this Chief Minister that we insist on re-electing four elections in a row when we had as an alternative this economic whiz kid, how can he be so economically ignorant if every single, without exception, major economic indicator suggests that the economy has never performed better and, therefore, has never been better run than it is now?" How does he think ordinary people square that with his persistent annual statement that I do not know what I am talking about in matters economic? They see our stewardship of public finances; they see their taxes falling to levels that they did not even dare dream about when the economic wizard, the supposed economic wizard, was their Chief Minister; they see that the number of jobs available for their children to aspire to and themselves in the economy, has risen by well over 40 per cent; they see the extraordinarily high level of public investment in hospitals, in roads and in all the things; they see and feel day to day the positive effect on their lives of this economic incompetence handling of the economy. The logical conclusion, one has to understand, because of course not everybody is as clever as him, that people come to is that he is simply not telling the truth, because I cannot be so stupid when I stand up in this House and so successful the moment I step out of this House.

That is why I believe it is the first of the three options. It just does not ring true, does it not? No. So, all we have had from the Leader of the Opposition's address this year is what we have had for the last ten years now, a total vacuum of meaningful economic comment and substance. Zilch, zero. An inaccurate rant into the distant irrelevant past, again. I understand that he is left with little choice, given that it must be a very hard job to sit down annually in the face of what I have just described to be the state of the economy, to actually pretend to be criticising the Government about. I understand that it must be politically an extremely difficult chore, but perhaps he would earn more brownie points with the electorate if he started acknowledging and recognising some of these obvious realities, rather than constantly trying to persuade the people of Gibraltar that white is black and black is white. He has nothing to lose by trying that new tack, after all the previous tack has not been exactly successful for him. But anyway, as he has already indicated, I look forward this time next year to the fourteenth playback of his Budget address this time next year.

The Leader of the Opposition, moving on, he will be glad, is correct that in my address on Monday I inadvertently mis-cited the Improvement and Development Fund revenue figure when referring to the expenditure figure. I said that I&DF expenditure last year was £31.3 million when in fact it was £32.3 million. £31.3 million was the I&DF revenue figure and, of course, it is normal that they are so close because at worst a small deficit or a small surplus is left in the Improvement and Development Fund, and so the figure of I&DF revenue from one source or another is almost always very close to the figure of its expenditure, except to the extent that there is a deficit or a surplus taken forward. However, the Leader of the Opposition was wrong when he said that subtracting the Williams Way £3 million, which I think he is right in subtracting for the purposes of analysis of actual expenditure on Improvement and Development Fund projects during the year, I think he is right in removing it for the purposes of analysis, but he is wrong when he says that doing so deprives me of claiming that last year was the second highest figure. Well, I will give him the statistics if he

likes. Going up from 1997/1998 every year until 2008/2009, well let us forget that because it is an estimate. Let us go up to 2007/2008. It is 10.9; 16.9; 42.2, which he should disregard because there are exceptional one off items there which do not rank as annual expenditure on projects; 19; 22.2; 20; 16.6; 15.2; 16.6; 26.8 and lastly 29. vide 32.3. So, actually, it would still be the highest if we disregarded the 1999/2000 figure, which is itself distorted.

The Leader of the Opposition asked for further clarification from me of the reasons why the I&DF revenue from proceeds of sale of properties was so much lower than had been estimated. We had estimated 20 something and in fact we got two and a half. The reason is not either lack of demand or timing of completions. Well, the second, except in a very remote and indirect way. The reason is that the Government was unrealistically optimistic in thinking that revenue from such things as the sale of post war council flats would materialise during that year. See, that is an issue that is capable of throwing up numbers of that order. So really, it is the fact that our whole policy initiative was unrealistically thought would come to fruition in this financial year and it has not been possible, not just because the elections intervening at a critical time during the last financial year but for other reasons as well.

The Leader of the Opposition also asked me about the current balance of £1 million in the companies and how we were estimating a million, and he wants to know what was the likely income and expenditure scenario during the next 12 months, which was somehow not revealed by that starting and finishing figure. Of course, I thought that he was going to live to regret, I did try to attract his attention, I did not give him exactly this information but I did give him quite a lot of useful information about how the Government company had spent their £40 million odd reserves, which he knows has reduced from £40 million off down to the £1 million, he knows from questions. Well, it had gone up to a bit higher before it started coming down, and as I was giving him gratuitously the information which he would not otherwise get, about exactly what projects that money had gone

in, he was in conclave with the Hon Mr Picardo and I do not know if by then he had forgiven the Hon Mr Licudi and included him in his conclave or not. But anyway, he was not listening, I know that and I knew he was not listening and I tried to attract his attention but I did not succeed. I gave him, not this information that I am now going to give him as well, but I gave him chapter and verse of each project on which how much of the company's reserves had been spent. He can either get it from Hansard or I am happy to give it to him again separately. Anyway, the information that he asked for in his address is somewhat different to that and I will now give it to him. The recurrent income of the companies, I say companies in the plural because we are talking about a consolidated picture here. The recurrent income, by which I do not mean any asset sales that they may bring about, in other words, income as opposed to capital receipts. There are still some assets in the companies and some may be sold. For example, New Harbours Industrial Estate is in a company and there is a programme going on to offer long leases to tenants. That is not included in these figures that I am going to give him. The revenue figure, therefore, is literally recurrent income, it is about £4.5 million, all the companies together. In terms of capital receipts by companies, we are expecting around £60 million from the following sorts of sources. But there is quite a lot of imprecise science, particularly about the timing of this. The Upper Town projects, in other words, the old Government owned blocks that we are refurbishing in the Upper Town for sale at affordable prices, we think, is about £4 million. Waterport Terraces will produce about £22.4 million. Not of profit, of course, we are just talking cash flow here. Waterport Terraces commercial units may produce about £5 million. Bayview, Cumberland and Nelsons are presently thought will produce about £4 million, but I think that is an understatement because quite a lot of those will have completed by then. So I think we will get more than £4 million from those developments. Other sales about £5.8 million and East Side agreement about £18.2 million. The expenditure is really dependant on two things, how much progress is made on the Government's various projects that are being done through the companies and how much of that money comes in, because



we are not going to spend anything more than the companies spend will have to be borrowed or spent through the Improvement and Development Fund. So we expect to spend all that we receive, is the best that I can say to him and leave a balance of £1 million, precisely. For the record, I will say, as I pass, that his passing remark that when he underspends in the Improvement and Development Fund it is usually because one cannot raise the money, which is a throwaway remark that he made, wholly untrue. The Government has never been short of money to do its capital programme and, therefore, there have always been surpluses, there has always been money in the reserves, even in cash flow terms, let alone there has never been xxxxxx. That is not the reason. He has himself identified in the past what the reason is and that in almost 99.5 per cent of the occasions, that simply the capacity of the industry and the administration to push out and to progress projects is finite and limited. Indeed, the point with which he finished his address. That is the real reason. He then said that despite what I had called a huge programme of projects, the House was being asked to provide only £4 million less than we spent last year, he said, and this is not an indication of a huge spending programme to come. Well, he is ignoring something else that I told him, assuming that he was not also in conclave when I told him these things too, which is that I took him through all the items in which there was a token or insufficient provision, which I nevertheless thought would produce more expenditure. I gave him the reasons why it would have been done that way, he was not persuaded that was an acceptable reason but at least a reason was given. So he knows that there are plans, just the projects that I listed in that part of my address would take the expenditure, just those are probably worth more than £25 million or could easily be worth more than £25 million during this financial year, let alone the others. He asked in respect of the £400,000 provision under the parkings head, which was described as being via equity funding, whether this meant that the balance to complete would also be done in that way. Yes, this is a novel way of describing spending and that is because we have not yet decided whether the companies are going to build the car parks, given that they are a revenue producing

asset, with borrowings or with funding provided by the Improvement and Development Fund. So we have really left ourselves the option, through the use of this language, of using the I&DF as a source, either of incurring the expenditure directly, or of using it to invest in the company so that the company uses the Government's money in effect for that purpose. He is correct in saying that quite a lot of money returns to the Government from this capital expenditure through tax, import duty and, indeed, obviously PAYE tax not just company tax. He is right also, I think it was him although I do not recall if it was him or the Hon Mr Picardo, that the published figures for estimated receipts from import duty obviously do not include the increases. He asked, well in judging whether the PFIs are a good deal or a bad deal, we would need to know what would be the equivalent public debt comparator. Well, that depends on the particular PFI deal that one strikes. In other words, the extent to which one locks oneself in to an effective rate of interest which then could move against one in the market, or the interest rate could fall in the market and leave one high. That is why the Government's preference, as we did in the hospital PFI, is always to leave an exit door so that if at any time a PFI deal becomes a very bad deal for the taxpayer, in the sense that it could be much more cheaply financed through straight public debt, we have the ability to extricate ourselves from the PFI and refinance through public debt. So the answer is that there is no generic answer that applies, it depends on the deal that one negotiates on each PFI project, whether it is either immediately or in perpetuity more or less expensive than in these. In the case of the hospital, there was an element of hedging against movement of interest rates against us that we took out, which actually served us in very good stead for quite some time. I think the hon Member is right, unless we sell many more assets than we are intending to sell, it is unlikely that we will see public debt levels at around the £100 million level for the forthcoming period of time.

I do not want to pre-empt in this reply, the debate that we will inevitably have when we bring to the House the Savings Bank Bill, save to comment on one or two points, particularly the one

that is relevant to this debate. That is, he said well why transfer the £17 million out now, why do you not keep them in the Savings Bank reserve until needed. We are not going to start building the housing just yet, well actually, we are going to start quite soon, whether we will need the whole of that £17 million before the end of this financial year of course is moot. In any case, I think it has got to be understood that the £17 million is in effect going to the Government reserves. In other words, £17 million that has been taken from the Savings Bank reserve and is going to enlarge the Gibraltar Government Consolidated Fund reserve. The other point that I will just make to him in passing, I know that he will wish to keep his options open for the debate on this, is that of course, the difference for the borrower of the Government having the £17 million locked up in the bank or not, is worse than academic because when borrowers take out Government debt, when they deposit money with the Savings Bank, regardless of the 10 per cent solvency margin, they have the Government's guarantee. In other words, the Savings Bank Act says, irrespective of the amount of reserves in the Bank, that the Government stand as guarantor of deposits. So if the Savings Bank were to go belly up, the Government would have to pay up people their deposits. Yes, that is what the law says, I am talking about the guarantee. The law says that they are the guarantor. Yes I know that there will be a cushion before the Consolidated Fund would have to answer for that, but the Act makes the Bank the guarantor of it. When people place their deposits with the Government directly, for example, when they buy Government Debentures, they enjoy exactly the same security. In other words, the covenant of the Government without the benefit of a solvency margin of 10 per cent. Most people would probably prefer to lend the money directly to the Government than directly to the Savings Bank. Actually, if the reasons why the Leader of the Opposition is thinking of opposing this were right, they should be thinking the reverse. They should be saying, no, no, actually I should prefer to have the money in the Savings Bank, because at least in the Savings Bank if everything goes flat, the Government and the Bank, at least in the Savings Bank I am going to get 10 per cent of my money back. Well, nobody thinks like that because the premise

upon which everybody, and I would urge the Leader of the Opposition to proceed on the same premise, is that if the Gibraltar Government go into insolvency, the state of solvency of the Gibraltar Savings Bank is pretty academic. I mean, the implications to everybody in Gibraltar would be such that the least of their concerns might be what happens in the Savings Bank.

He also asked me to amend the Schedules to delete this estimate of £17 million coming across, for the same reason as I had moved the amendment to the Bill. Namely, that it also pre-empted the will of this House when it comes to debate the Bill that will make it lawful to do that, which presently it is not. I do not think that is right. Well, I think it is right that it is presently that the Government could not do it today, and therefore to that extent there is pre-emption. But the reason why I think the status of the reference in the Bill is different to the status in the Schedules is the following. In the Bill, the reference to the Statutory Benefits Fund is not an estimate, it is a statement that the Fund exists today. In other words, I am asking the House to pass a law which contains a reference to legislation to a fund which does not exist, as if it already existed today or tomorrow or whenever it is that we pass the Third Reading to this Act. That is not the case in respect of the reference to the same £17 million in the booklet, because the booklet is an estimate of what the Government expects to happen at some point during the next 12 months. We are not saying in the booklet that that is the case today, and as a statement that we estimate that it will happen at some time during the next 12 months, I think it is accurate and does not pre-empt the will of the Parliament in declaring that it exists already as of today. So for that reason I believe that it is correct for the Government not to concede to that request that he made.

I agree that the taxpayer already has a budgetary item for pensions in the case of Civil Service occupational pensions. In other words, a liability effectively completely uncovered and, therefore, a charge on the Consolidated Fund and I agree that we should strive that the same should not happen in respect of

the old age pension, and it was back in 1997 or 1998 whenever I said what I said, that it was the Government's policy that it should not, and indeed, it is also true but, of course, at that time we could not envisage the settlement of the pensions deal and the fact that we would increase local pensions by 65.2 per cent in one year. There is no way that the Fund could fund that out payment and so that is why it is one of the reasons why we are increasing the social insurance contributions, because it is important that at least in respect of the non 65.2 per cent outlay of the Fund, that it should be funded from the Fund and, indeed, we should in respect of the £10 million that funds the 65.2 per cent increase, we should over time strive, to use his language, make a dent in that. By some other funding means, by diverting an income stream perhaps to the Pensions Fund, selling an asset and putting the capital in is only half a good job because, of course, one does not want to be eroding capital to do it either. It is much better that the Fund has an annual income stream to meet an annual benefits expenditure. So that is something that we will be addressing our minds to as to how we can beef up the income level of the Fund to make a dent into and therefore reduce the £10 million that comes directly from the Consolidated Fund. Of course, unless we divert income stream from the companies to the Fund, any income that we divert from the Consolidated Fund to the Pensions Fund will, alright it may make a dent on the £10 million item but it would also reduce revenue somewhere else in the Consolidated Fund and therefore have exactly the same impact on the final budgetary position. Unless, of course, the economy has grown, Government revenues have grown in the meantime and we use the proceeds of that growth, in effect, and divert that. So it is something that we have to give some attention to.

The Leader of the Opposition asked for clarification of the remarks of the Principal Auditor on page 39 of his Report in respect of the overpayments to the GDC. Actually they were not overpayments to the GDC in the sense of its own revenues that he sees in that booklet. They were a mis-application in the Insolvency Fund, which is a separate fund maintained by the GDC and not the revenue and expenditure figures income that it

has. There was for a couple of years too much money paid into the Insolvency Fund by error in the Treasury, but that was reversed in March 2006 and April 2006 by the transfer from the Insolvency Fund back to the Social Insurance Fund of £1.1million and £41,000 respectively to rectify the problem. It appears that a further adjustment of about £12,000 is required. So it may be that the Principal Auditor, if he was referring to the two big items and not the small £12,000 left, may have used language which gave the Leader of the Opposition the false impression that it was still an outstanding issue. It is not. So it does not affect any of the figures that we debate here in this House. He is also right that the reason why the training levy revenue of the GDC comes down from £2.6 million to £0.6 million, is that we have reduced to zero its share of the social insurance contribution as of 1<sup>st</sup> July this year. Therefore, it has already benefited from three months worth of revenue. April to July that is £600,000 and, of course, that is not going to be reversed retrospectively so it keeps that revenue for this year.

He also asked why the stamp duty was spiked so much higher than the estimate, why it produced so much more. In fact, I am told that the figure is actually a bit more even than the forecast outturn suggests. I think it has crept up to £4.7 million, I cannot remember what the figure was in the forecast outturn. Was it £4.7 million or a bit less?

**HON J J BOSSANO:**

£4.2 million.

**HON CHIEF MINISTER:**

Something like that. So it is even a bit higher than that. I think I have not had a satisfactory explanation for that, except a combination of one or two very large private sector transactions on Main Street, which do not explain the hike. What is more likely to explain the hike is the fact that there were completions

in Euro Plaza, which did complete there. So, I think it would take and, indeed, we do not know whether The Anchorage, all those houses up in the south district, will complete or not. They are above the exemption threshold in value and, therefore, we do not know whether those are going to complete during this financial year or not. If they do there will be more than what we are estimating. So the spikes come whenever a usually luxury, or at least middle to upper end of the market private sector development comes onto the market for completion, and people start completing on their under leases. I am afraid that that is the best that..... I suppose we could improve the quality of our estimating by asking all the developers to report to us whether they are expecting to finish their jobs, but that would be the only way of doing that.

The lottery surplus, he also raised with me, and he is right. The language used in the footnote of appendix M, suggests a course of action which is not the one that has happened. Mr Speaker, the reason for that is that although the note suggests that the transfer of any year end surplus to be effected during the following year, would require it to be in the estimates column of this booklet, not in the forecast outturn column which is to actually take it in the year in which it is earned and not in the following year. The explanation that I have been given in the Treasury is that they have actually put it into the forecast outturn despite indicating the contrary in the footnote last year, because it was already established and known at the time that the booklet went out to print. In other words, the reason for excluding it, which is that we do not want to write in a figure that then turns out not to be the case, was no longer a possibility because the figure had been definitively established and, therefore, the reason for leaving it out no longer applied and they felt it should be accounted for there because there was already certainty to it. Therefore, what they are suggesting is a change in the language of the footnote that will not have the effect that the Leader of the Opposition has rightly identified. It would be something like, "due to the wide variation in annual surpluses, this is not reflected in the Consolidated Fund revenue until the surplus is established". Which means that on every

year that they know that they are reasonably certain of it by the time they produce this document, they will put it in the forecast outturn column. If they are not sufficiently certain of it, it will go into the estimated column.

The Leader of the Opposition then asked whether the commencement of the new Housing Act, which amends the Landlord and Tenant Act, which allows for an increase of 100 per cent in statutory rents, would have an effect on rates income. The answer is, of course, that it does not have such an effect because rates on residential dwellings are linked to Government housing rents, which as the Leader of the Opposition knows, are what they are and are not affected by the increase in statutory rents. So rates will not increase unless rents in the public sector increase.

He then asked for some sort of explanation on this business of the Electricity Authority's revenue from commercial works. Mr Speaker, the answer to that is just really this, and this is the best that I can do for him. As he knows, these figures are put together on a cash basis, the vast majority of commercial work is done for companies that are required to pay in advance for those works, there is therefore, in terms of this accounting, no correlation between the expenditure and the revenue in one year, because the work being done this year may be attributable to work that was actually paid for in advance in a previous financial year. So, of course, the difference is not profit. But I can tell him, just so that he knows how the figure for revenue is struck, how much people are asked to pay for commercial works that the Authority does, I can tell him by the way that between 67 per cent and 100 per cent of all the GEA's revenue for commercial work is paid in advance and that the commercial works may take up to two years. So they could be up to two years in advance of all or part. So in effect the GEA has pre-paid obligations, if I can put it that way. The expenditure on commercial works includes materials and overtime, whilst revenue is charged on the basis of a full estimate of labour costs. So, obviously, we do not account for basic pay here because it would then be double counted. It is already

accounted for under the emoluments figure, on the expenditure side. But on the revenue side, in other words, how much the companies are asked to pay for the work that is done, that is done on the basis of the full labour cost, that is to say, basic plus overtime, plus materials, plus overheads at 33 per cent of both labour costs and material costs. So there is a management mark up, so theoretically if they estimated the labour and materials costs properly, they should be making 33 per cent profit but I do not think they do somehow. He may also be interested to know that as at March 2007, revenues collected by the GEA in advance for commercial works to be carried out stood at £2.2 million. He can see that from the accounts to March 2007 that he has of the Electricity Authority.

Of course the Government expects to pay something for relief cover in these three heads, it is not that we do not expect to pay anything. I suppose, strictly speaking, he is right that the difference between what he expects to pay and what one hopes to save, ought not to be provided for in supplementary funding. That ought to be provided for directly in the estimated budget for the department. But the whole purpose of doing this is for the Government to really test the need for some of this relief cover. In other words, the Treasury, the Finance Ministry officials, want to actually submit the departments to a process of application, so that they can assess the needs on a case by case basis and in that way test whether this expenditure really is as necessary as the departments suggest. Now, whether we will keep this up once we know the answer to that or not I do not know, but at the moment that is the reason why it is all provided in the supplementary funding vote.

Mr Speaker, I now move on to the contribution of Mr Steven Linares. I will come later to his remark that the people of Gibraltar are fed up with the GSD, that the Government is only interested in spin, photo opportunities and bowing down to the rich and that we deliver a pittance to the community. When he said that I thought he must have been referring to the party with which he subsequently decided to join in an alliance, because of course, all of that is true of the GSLP's eight years in

Government. I thought he must be talking about his new partners before they were his partners. People in Gibraltar will be aghast at the hon Member's powers of judgement and assessment, and I think he does a huge amount of damage to his credibility that some of the other speakers on his side of the House are clearly unwilling to suffer to theirs, to say to the people of Gibraltar that we do only things for the rich and that we have delivered a pittance to the community. Still, he will have an opportunity before I sit at the end of this address to gauge the extent to which he thinks that that is a reasonable comment. Of course, he and some of his other colleagues can if they want to take the opposite view that the GSLP used to take when it was in Government, and jump on every bandwagon of every aggrieved group of workers in the public sector and pretend that they are right and the Government is wrong in each and every dispute, regardless of the merits of the case. I think no Opposition in any democracy in the world behaves in that way. But if the hon Members wish to behave in that way, in my view all they are doing is perpetuating their sojourn on that side of the House. The hon Member not only does that but studiously refuses to believe what he is told by Ministers. It is not true that the Government has given incorrect information to Parliament. It is not true that family members are now not allowed into the Station. It is true that they are not allowed into the Station as if they were going for a walk in the park. It is true that they now cannot use the Fire Station as if they were walking into a cafeteria in Main Street. It is not true that they are not allowed into the Station, all they have to do is comply with the access protocols that have been established, and which the firemen which he says we are bullying, are stopping from being implemented. So today the only people denying entry to the Fire Station to these people that he is describing are the people who he says are right and not the people who he says are wrong. But I know that the hon Member could not give a fish's xxxx about the truth. He does not care what explanations he is given. He does not care who is right and who is wrong. He does not care whether it is six of one and half a dozen of the other. In very few disputes is one party entirely right and the other party entirely wrong, that is my experience in life. But does

he care? No. He is quite happy to proceed that in each and every industrial relations dispute that the Government has with its workforce, the Government is wrong and the workforce is right. Well look, I can tell him something that will strike in the minds, even of those people who he claims to be supporting. They will not recognise in his statement the fate that they used to suffer during the eight years of GSLP Government. That I can guarantee. Even the firemen, the ones that he is now wanting to give blank cheques to, even they will know that this is not right, that this now bullying of public sector workers by the GSD, they must think he has taken leave of his senses. The difference is that he does not know what used to go on before under the GSLP Government. I have never before seen a Government that thinks that the way to ingratiate themselves with the electorate is to always side against the Government, that is after all looking after the taxpayers' interests, by siding against the Government and with, usually, the most privileged, well off, well looked after group of public sector workers in the whole public sector of Gibraltar. Only they are capable of being as disingenuous as that. Or does he think that the Government picks a fight gratuitously with public sector workers simply for the fun of losing their votes at the next election? Is that what he thinks? Does he think that we are stupid and that we go around picking fights? Ah, here are another hundred workers that will not vote for us at the next elections, good, where is the next lot? Ah, the next lot is in the Social Services Agency. How many are there? 140. Oh great, another 140 workers that will not vote for us next year. I know how we will achieve that, we will go off and pick a fight with them. That is the essence of what the hon Member is saying. What he is saying, in fact, is that he is not fit to be in Government because he is not willing, he does not have the courage and the honesty and commitment to do what is unpopular, to do what may cost him votes, because it is his obligation and his duty as a Minister of the Government to look after the wider interests of Gibraltar. That is all he, and for that matter the Hon Mr Licudi, that is it, that is why neither of them are fit for office, neither are fit for Government and neither of them understand what the nature of the responsibility of being a Minister of the Crown involves. Well, the new prison has still not

been constructed and the current prison is inhumane. Well actually, I personally tend to agree but it does not lie on his lips to remind me. I rush to the manifestos, I see it in ours, yes, is it in theirs? Is it in theirs in this year, oh no. Well, it is just as well that the poor prisoners in Moorish Castle, it is just as well for them that he lost the election and we won it, because if we had not, the inhumane conditions would continue to prevail because it has not been in any of their manifestos to build a new prison. But why does he treat this House and the people of Gibraltar as if everybody was silly? I mean, one of the characteristics of Opposition Members is that having no policies of their own, having no vision of their own they are reduced to time keepers of the time that it takes to deliver the Government's projects. Often projects which if they were in office would not be built at all. So what is the logic of keeping time on our execution of them? It is just devoid, it is another vacuum of political relevance, a vacuum of political content. That is what the hon Members are and do. Of course, because he has got nothing else to say. I mean, can he just give us an indication at some stage soon whether he intends to raise the Theatre Royal fiasco every year until when? Well look, he went to an election telling the people of Gibraltar that the GSD is an incompetent Government because, amongst many other reasons, of the Theatre Royal fiasco and the people of Gibraltar still preferred us to them. Does he not think it is time just to give the scratched record a rest? No, he says he does not. Well, all that this means is that the people of Gibraltar will continue to think what we know to be the case, and that is that they have no alternative plan of their own. They are a purely destructive Opposition, they offer no alternative for the governance of Gibraltar. The incinerator is taking too long to construct, well, how does he know how long it takes to construct an incinerator? Is he some sort of engineer? How does he know what the lead in time is? This is like the Spaniards with the New Flame. It sank in August, it is still not rescued, it is still not salvaged by December, because it has taken six months, it has taken too long. In other words, how does the hon Member know what the process is? In any case, do they have a manifesto commitment to build a new incinerator? If they have not, what business is it

of theirs whether it is taking too long or not? Even if it is taking too long, when it eventually happens it will be sooner than would have been the case if they were in office. The hon Member can rest for a while I am just looking for a piece of paper. He is in a stroke of luck I do not think I can find it. Oh yes. "The Government" says the hon Member, "give less and less discretionary grants". I said to myself, wait a minute was it not the Leader of the Opposition, his great Alliance leader, that had just finished telling the House that one should not be selective with starting points for statistics in order to make and prove a point? That may be his firemen coming to give him moral support. Well, I said to myself, oh dear does he have a point? Of course, as he has chosen to carefully choose his words, conveniently choosing a starting point in order to make his point, the mortal sin that the Leader of the Opposition accused me of in another context in relation to my speech in the Chamber of Commerce in 2003 and the amount of growth in employment that we had been able to deliver in our first three years in office. So I look at the statistics and I see our lowest figure for discretionary awards, has been much higher than the GSLP's highest figure ever in the eight years in office. What is the matter with the hon Member? Does he just not know what he is talking about? Or is he trying to deceive? Let me read the discretionary awards from 1988/1989 to 2007/2008. I will tell, I am sure everybody will leap up and will know when we come to the GSD's election just by the jump in the statistics – 18, 17, 18, 21, 21, 19, 30, 48, 45, 21, 108, 111, 115, 135, 210, 83, 50, 71 and 67. I can understand that the hon Member cannot afford to have people understand the real position. But at the very least he should settle for silence on the matter and not try and give the opposite impression to the actual truth. Truancy is higher here than in the UK and the Government do nothing. The hon Member is prone to profound statements that actually mean nothing when they are subject to analysis. How does he know? The UK does not appear to have a definition of truancy, so what is he comparing with what? What we know is that attendance in Gibraltar schools average from 88 per cent to 94 per cent and that this compares very favourably, not worse or higher, or that the UK is higher and our is lower, with attendance in UK

schools. Well, of course, unless the officials in the Department of Education also do not know what they are talking about and we are now to regard the Hon Mr Linares as the oracle of education statistics in Gibraltar, then this is what the professionals in the department are saying to the Government, to me through the Minister. So, truancy is higher here than in the UK is a false mis-statement in this House, and the Government do nothing is another false mis-statement in this House. Not that the hon Member cares about the difference between truth and falsehood. The Department of Education has a document, wonderful, I did not know it existed I have to admit, but it is a document called "Department of Education and Training, Keeping Pupil Registers – a Guidance for Schools". The Government do not do nothing, the Government have protocols and processes for monitoring and eliminating non-attendances at school. So, in one short sentence he managed to include two facts, both of which, are also 100 per cent of the facts in his sentence, were wrong. How does he manage that if he knows what he is talking about? How does he manage it? It is beyond me. Still.

Moving now to the agreeably courteous and polite Mr Costa. Therefore I am going to do my hardest to reciprocate his style. The hon Member has just been elected. His participation in politics in Gibraltar is recent but, certainly, I for one welcome the entry into political life of young people, albeit that I would prefer them to enter into my party but at least that they should enter into the political field, because they are Gibraltar's future political leaders. I warmly welcome his decision to throw his hat into the political ring, but given the recentness of that fact, does he not think that he is just a touch precocious to declare as his first statement, in his first Budget speech in what I hope will be a long, not too successful political career. I hope it is successful but slightly less successful than the youngsters that join the GSD. Does he not think that it is a tad precocious to declare with his first statement that the Government that the people of Gibraltar have chosen recently to re-elect for the fourth time, is an incompetent administration? Even if it were true, which is unlikely, how would he know? How would he know whether this

administration is incompetent with all of 15 minutes in politics in Gibraltar? What is he comparing it with? One thing is for sure, because of his age and recent arrival in politics, he is certainly not comparing it with the last GSLP administration, that is for sure. If he compared this administration with the last GSLP administration, I know that he is not GSLP, I know that we maintain a fiction that the Liberal Party exists as a separate party and if the hon Members are determined to persist with that fiction, I am not going to spoil the party. So, I know that he is not in the GSLP that he is in the Liberal Party. But if he were to compare the competence of this administration with the competence of the GSLP administration, he would not be in alliance with them, he would be in alliance with us. Such is the prematurity of his assessment. He then goes on to say that in the context of Waterport Terraces we have placed first time buyers in an impossible financial situation. Well, some first time buyers. Well even that is not true. The other thing he has got to learn is that I rarely make an accusation without xxxxxxxxx but much more immediately than tends to be the case with Mr Licudi. He delays it for a few paragraphs, I come in immediately with the explanation. I know that what the hon Member has done is seen the letter in the Chronicle written recently by a group of Waterport Terraces buyers, in which they have said that this delay in the completion has put them under additional budgetary that they have not budgeted for. Well look, it is a nonsense. The argument is a fraud. The Government went to the trouble, before entering into any agreements with the buyers, that in respect of the bridging loans, which by the way the Government is guaranteeing, the rate of interest and the period of time over which the loan was being made, both of which affect the amount of the monthly outlays to service the bridging loans, had to be as if this was part of the 25 year mortgage loan. So whilst they are paying these bridging loans, these poor borrowers, who by the way are buying properties at much less than they are worth, are actually paying at the same rate as if they had already completed on their mortgage if they had not been delayed. Except that they are paying it on a fraction of what the mortgage debt will be when the Government does finish the project and when they are completed. Far from

being exposed due to the delay to higher unbudgeted expenditure, they are enjoying a holiday from what would already have been higher mortgage servicing costs if the delay in completion had not taken place. If the delay in completion had not taken place, they would now all be paying interest on their full mortgage loans and they are now paying interest only on the bridging loan part of the value of the price. That is a different argument. I am sorry the statement was not that they are being delayed access to their very nice, comfortable new home, which some of them will get very soon, the statement was that we were placing them in an impossible financial position. The hon Member was addressing the finances, as did the letter in the Chronicle, that he took his cue from. They are both wrong in equal measure.

**HON N F COSTA:**

Mr Speaker, would the Hon Gentleman give way?

**HON CHIEF MINSITER:**

No.

**HON N F COSTA:**

Then I cannot explain the position and the cue is misconceived.

**HON CHIEF MINISTER:**

No, he cannot explain. The position is as I have explained it. Mr Speaker, he says that the hon Member is receiving increasing number of complaints from previous GSD sympathisers. Well, does the hon Member believe that the existence of complaints is evidence of a very bad health



service? Does he therefore believe that there were no complaints when the GSLP administered the health service?

**HON N F COSTA:**

That was 12 years ago, we are talking about now, about Government today, not 12 years ago.

**HON CHIEF MINISTER:**

Of course we are talking about that, of course we are talking about the position now. The point is not that. He should relax. The point is that he cannot use individual cases of bad patient experience, which have always happened, will always happen in every medical centre however good it is, and then use it as a case for undermining the entire system and the entire quality of that. It is not just him who does it, the hon Member does it in housing and the other hon Member does it in social services. What they do is that they use individual client bad experiences, which I have no doubt occur, and say "see, this proves that the new hospital is terrible, that staff morale is terrible, that the Government, who are all to blame, the Ministers, because, of course, the staff who we do not dare criticise for electoral reasons, they are all brilliant. So the people delivering the health service are all brilliant but the Ministers, who he wrongly thinks are employed to manage the hospital, the Minister for Health is not employed to manage the hospital. That is the mistake that the GSLP made when they were in Government. It is not, contrary to what the hon Member has said and therefore misunderstood, the job of the Minister for Health to manage the hospital. But, of course, as he needs to blame the Ministers because he does not want to blame the service deliverers because they are tomorrow's voters, he says "there is this patient that has been very badly treated", which may be true, "therefore the entire system is rubbish and the fault is not the staffs it is the Ministers". Who does he think in Gibraltar believes him when he says that? Well, I can just say not

enough, it was not everybody on polling day last year. No it was not more than 50 per cent, unless they are saying that they do not hold me personally responsible for it because I got more than 50 per cent. So it may be possible. There may be people in Gibraltar who think that the Minister is responsible but that I, who apparently make all the decisions, have no responsibility for the state of the health service at all. The hon Member's interjection from a sedentary position could only be true if that also was true. The Government is legendary in appraising itself. Actually what I get accused of is of not extolling our achievements enough. The biggest criticism that I face as a leader of a political party is that I do not enough explain and remind the people of Gibraltar of the enormous achievements of this party for Gibraltar in Government. That is what I am accused of and whilst they are having executive meetings machinating who is going to be the next leader of the party, my executive is meeting complaining that I do not boast enough about the Government's achievements. But look, whilst boastfulness is not an attractive quality, we have good reason to extol our virtues, as I am going to be reminding in a while. The position he says generally, can only improve with the GSLP in Government. Well, that was not the people of Gibraltar's experience when the GSLP was last in Government, and I do not think the people of Gibraltar are going to give the GSLP the benefit of the doubt again, given how close to the precipice the GSLP took Gibraltar to last time, whilst the man who led them at that time is still leading them today. Which must be why Mr Licudi hopes that he will not be the leader at the next election. The position was not better when Gibraltar was last led by a Government led by his current leader. Certainly, there is no evidence, not only is there no evidence to support his statement that only a GSLP Government can make Gibraltar better, to the extent that there is any evidence at all, albeit historical, it is forensic of the contrary proposition. Yes, well, he should not be so surprised at what I am saying. The leader of the party of which he is a member and maintains the fiction is a separate party, appeared with me on television and tore up the manifesto of the party that he says can now be the only one to improve Gibraltar. I do not see why he should be so surprised at what I

say. I started my speech by saying that if the attacks were the same every year, the defence had to be the same. Gosh they do not know how I wish that they would invent some new form of attack so that I can deploy a different form of defence. Let us do a deal, none of us will deliver the same speeches next year, okay? I really look forward to that, as I am sure does everybody listening in on this debate. Of course, the common denominator of all these complaints, he told us, inviting a huge amount of loss of credibility to himself, which I do not think is positive, is that all the complaints, the common denominator of all the complaints is that there were no complaints against the staff and it was all with management and the quality of the procedure. All the complaints. Does he not understand the absurdity of that statement? The majority of the complaints in the health service are, rightly or wrongly, some right but many wrong, about the nature of treatment to which they have been subjected to by a member of staff, a nurse, or a doctor or a this or a that. The huge majority. Does he not understand what a self-serving absurdity it is to say that all the complaints, because it is a common denominator, have one feature in common. Namely, that nobody complains about the staff. Look, not even the people whose votes he is trying to save by saying ridiculous things like that, believe him enough to give him his vote when the time comes. There has never been a more effective complaints procedure. Of course, but as he is recent in origin in politics, for which I am not holding it against him in any sense, we all went through a learning curve when we first arrived in the political scene, he does not know what to compare the present hospital complaints procedure with what was there before. Gibraltar has never had a more effective complaints procedure than it has now. Never, ever, not under the previous years of GSD Government, not under the previous GSLP Government, not under the previous AACR Government, not under the previous Integration With Britain Party. That patients are not aware of the procedure is simply untrue. That people are loath to use it is simply untrue. That people are unable to use it is simply untrue. Untrue. It is constantly being pointed out, there are leaflets published by the Authority, there are references to it in the annual report, it was launched with huge fanfare,

everybody knows that it is an incremental complaints procedure starting with an informal oral complaint, which the patient can upgrade into a written and therefore formal complaint, and if he is not satisfied with the outcome of that, he can kick the whole process up to an independent review panel with statutory, legal powers to force the hand of hospital management. For the hon Member to say that patients are not aware of the procedure, well look, all the ones that do use it are aware of it. All the ones who do use it are not loath to use it and all the ones who do use it have not been unable to do so. That it is designed to put people off altogether. I realise that he is just quoting from the letter that he wrote to the Minister on behalf of one particular patient. He is just regurgitating his own language in a letter to the Minister, designed to put people off altogether. Why? It has never been easier to complain about the GHA than it is now. He should have tried complaining about the GHA when the GSLP was in Government. That is what he should have tried to do and then he would know what loathsome to use it, unable to use it and being unaware of the procedure really means. The top professional who found it difficult to make a complaint, well look, even if we believe, which we do not, his absurd statement that it is difficult for anybody to use it, I would hate to think that lawyers in the firm of which he used to be a partner until a few weeks ago, namely Hassans, are incapable of comprehending a simple complaints procedure, because the patient of which he was talking is a lawyer in the employment of that law firm. Is he seriously saying to this House that such a person is unable to understand or is unaware of the procedures? It is just not credible. It is just another example of the hon Member abusing an individual case to attack the entirety of the system. Let me tell him that this lawyer that he thinks is at the top of his game, was offered two meetings by the Minister and he failed to turn up to either. So I do not know whether he is at the top of his game or not, I do not know whether he can understand the complaints procedures or not, but surely he knows how to keep an appointment when it is given to him by a Minister of the Government? He must know that. The letter from his ex colleague in the firm, on which he has built his entire case for his speech. Yes, that is the case I am talking about. Yes, what the

hon Members cannot do is use individual cases as a battering ram and then worry when the Government use the same individual case to defend itself. If they do not think it is appropriate to use individual cases in politics, they should not raise them. That all complaints should go directly to the Ombudsman is nonsense. What organisation in the world, can the hon Member think of a single organisation in the world that does not have, at least as the starting point, its own complaints procedure? This idea that if a client, or a patient, or a user of a company or a public service sector, the moment he has a first level of complaint cannot raise it with the management of the organisation but has to go straight to the ombudsman, is the most unrealistic, unviable, inappropriate, ineffective policy proposal contained in the GSLP manifesto, and that is saying a hell of a lot. Another thing is not to allow the company's or the organisation's own process to be the end of the day, because one might think that they might cover up. So the sensible thing to do is to give the organisation its own first crack at the whip and then make it clear that there is a second crack at the whip outside the organisation if the complainer is still not satisfied. That is what we have here. To deprive the GHA of the administration in the first instance of the first phase of its complaints procedure, is not only to make the complaints procedure really difficult and loathsome because by the time the Ombudsman is able to give a response, one can be certain that the treatment is long finished. But actually, is to deprive the Health Authority management of the ability to learn from their mistakes, because one of the principal tools, one of the principal benefits of the complaints procedure, in addition to giving satisfaction if possible to the complainer, is that in the process of the investigation of it the GHA is able to discover and learn things about itself which it can then correct. Why if he knew what he was talking about would he want to deprive the GHA of that? Individual members of staff speak out anonymously against the GHA, wow, what is new? He thinks that started on 16<sup>th</sup> May 1996? Look, there are politically minded people and there are even aggrieved non politically minded people in every organisation. He thinks that because any number of members of staff speak out anonymously, I do not know what speaking

out anonymously is, I did not know how one could do that but anyway, against the GHA that that means the system is wrong and that everything is xxxxxx is a touch naïve, that approach to life. He can be sure of one thing, if he should ever find himself on the Government side of the House, and he may be young enough to achieve that, he can be sure that he will be hearing a lot of aggrieved members of staff speaking about him and his Government. The hon Member then relied on the reports of the British Medical Council into the case affecting a particular death, the Rocca inquiry, into the comments. Well look, that is not an example of bad management. That is not an example of bad health services. It is certainly an example of the level of health care falling below, at a medical level in the hands of the doctor involved, for which Ministers cannot be held responsible, of falling well below the required standard resulting in a tragic, and many people believe, I am not able to judge whether it is so or not, an unnecessary death. The reaction of the GHA to that was an example of quality, competent, responsible management. In other words, to enquire about it and as soon as there was a negative report about the doctor, bring about his departure from the health service, which happened. But look, before the hon Member selectively quotes from a report as evidence of a system's failure, which is basically what he did, and in order to point out to him that he too and not just his colleague, the Hon Mr Linares, is capable of breaking the great leader's rule about not quoting selectively, let us read the whole paragraph that he was referring to. I quote from the report at page 13, "the panel has taken into account the evidence regarding the culture at St Bernard's Hospital", by the way, this is the old St Bernard's Hospital not the new St Bernard's Hospital, "and the information which indicates that there was a lack of medical governance and training for staff at the time". This is precisely why we did the thorough root and branch review, this is why we brought in the new management that the hon Members objected to and opposed both. "It has heard from Doctor MK that a Senior House Officer in Gibraltar was expected to take on more responsibility than a Senior House Officer in England. You have told the panel that there was low morale amongst the staff at the hospital". It all sounds familiar does it not from his speech?

"During the course of your evidence", this is the panel speaking to the doctor sitting in front of it, "during the course of your evidence you criticised the nurses at the hospital concerning these events and have sought to blame colleagues such as Dr B. Whilst noting this evidence the panel does not consider that any of these matters excuse your multiple failures in respect of your care of patient A. Indeed, your actions and inactions at various points during the day", presumably he does not think Ministers should walk around with every doctor all day as they do their ward rounds, "indeed your actions and inactions at various points during the day cannot be", this is the bit that he chose not to refer to, "cannot be explained by any system's failures you attribute to the hospital and its staff". Presumably the hon Member bothered to read to the end of the paragraph on which he was relying. If he did, it begs the question why he used it as evidence in this House of system's failures attributed to the hospital, when the British Medical Council itself was saying that it could not be attributed to any such system's failure. We call for a truly independent body, well Mr Speaker, to carry out complaints under the Ombudsman. That is what we have got, a truly independent body, a statutory complaints review panel established under law, appointed by the Ombudsman. What we need, according to him, is exactly what we have got and before he realised that he described it as rubbish. That is what we have got, a truly independent, statutory complaints body under the Ombudsman. He does not know what he is talking about in this House. He has to, and I remember making similar mistakes myself in my first two years in this House, but there is a lesson here for us all. If one is going to recommend or criticise what one has got and suggest something better and different, which is perfectly legitimate in politics, but at least one has got to understand what it is that one has got at the moment. Once one has understood it, one can still say well I think it should be even better. That is fine. But to call for what we have already got seems to me not legitimate. The hon Member must not for one minute think that the GHA sat on its hands, there have been a lot of lessons learnt arising from that incident and the GHA has submitted itself to tests, independent tests, about how they have implemented the

remedial actions to minimise the possibility of that occurring. I am not willing to carry on debating every year in this House, depending on how many elections we win in the meantime, whether the Government was right or wrong in building the hospital where it built it, in converting an office block, in not building, it is a stale, irrelevant, outdated, political argument which says much more about the hon Member's ability to bring anything new and fresh into the House politically, than it does about the Government's decision. Look, the people of Gibraltar have heard all the arguments in that respect a million times from people who are politically more experienced and more credible than he, and they do not accept it. Why the hon Member thinks in those circumstances that it is effective, but even if he thinks it is effective what is the relevance of bringing it up every year? Particularly in the context of arguments that show that he has not understood the funding mechanism for the building of the new hospital. Of course, all he has done is read the speeches that used to be delivered on this subject by the man who used to occupy the seat next to him, but anyway, one of the Members who is no longer in this House and, therefore, in a sense to me is replaced, who used to speak about health and is just regurgitating his similarly inept assessment of the funding model of the new hospital. Look, to say that the new hospital because there is a £4 million rent payment is going to cost £130 million, is like saying that when one buys a house for £60,000 on a mortgage for 25 years, by the time one has added up all the interest over the 25 years the house has cost £130,000. That is what the hon Member has said. All he has done is he has said, look, because he has not understood this, but the rent that the Government is paying RBS under the PFI funding model, of course RBS paid for most of the building of the hospital. We know we have got a splendid hospital there and RBS, not out of the kindness of its heart, put its hand into its pocket and shelled out the vast majority of millions of pounds required to build it. The Government could have built the hospital in one of two ways. It could have done it that way or it could have gone to the bank and borrowed the money. If we had gone to the bank and borrowed the money instead of paying RBS rent, we would be paying the bank interest in almost the same amount. So why

the hon Member thinks that the PFI model results in a hospital that costs £130 million, well, I suppose that the people in Waterport Terraces that he is purporting to defend because of the Government's outrageous behaviour, apparently, what he should be telling them is, "look, do you know that really you are not paying £80,000 for your half of the house. Really you are paying £160,000 or £200,000". If one tots up all the interest that one is going to be paying to the bank under the mortgage for the next 25 years, and we describe that as the cost of the house, then the cost of the house is much more than one thinks and that is the simplistic, ridiculous assessment that the hon Member has made about the costs of the new hospital. He appears not to have understood that what is rent is the equivalent in a PFI funding model of what would otherwise be interest to the bank if the Government had just gone and paid for it out of public debt. Does he understand that now? Good. Then he went on to compound his error by saying it is a shocking waste of public money which proves that the hospital should have been built in a different place. Well, I do not see how it proves anything of the sort, even if believed that it should have been built in a different place. It is certainly not indicated by the fact that the PFI has a rent of £4 million. Or does he think that a hospital built in another place would have been free? One thing is the funding model and another thing is where one builds the hospital, what has one thing got to do with the other? If the Government felt that the PFI model no longer suited the taxpayer and it was best refinanced, the Government has had the presence of mind to secure for itself the periodic right to switch from one funding model to the other. Was that not astute of us? Even without knowing that there would be an economic whiz kid telling us five or six years down the line that we had chosen the wrong funding model. Even though we did not know that that was going to be the case, was it not astute of us to leave ourselves the door open and to negotiate the ability to switch to some other funding model should it ever become attractive to the taxpayer to do so? The money that he claims that we have wasted he says should be spent on dialysis machines, more doctors and more nurses. But does he not know that we have done that as well? Does he not know that

we have already invested in a wonderful range of dialysis machines, that we have hugely increased the numbers of nurses, that we have hugely increased the numbers of doctors? But when he says it requires a change of Government to spend the money on dialysis machines, doctors and more nurses that it does not need a GSLP Government, because the GSD Government has done both. Well it gives me a wonderful opportunity to remind him just how much we have done, despite the scandalous waste of money which he thought had prevented us from doing it all. Well, apart from the new hospital we have established a new Primary Care Centre, we have established a new emergency ambulance service in the public sector, we have tripled spending on health, we have abolished private practices, we have eliminated waiting lists in many of the medical disciplines, we have introduced a multiplicity of new medical services, we have increased medical and support staff from 428 in 1996 to 793. How many more does he want us to employ? We have almost doubled it since the level that the GSLP thought was perfectly adequate. The number of doctors and dentists has risen from 33 to 61, nearly double. The nurses have gone up from 292 to 374. The allied health professionals, therapists and things of that sort, have gone up from 37 to 59, and other patient support staff has gone up from 66 to 299. How many more does he think? Did he not know, did he not bother to read our manifesto, why does he come to this House to say that if we had not wasted money on the hospital we would have been able to have more nurses and more doctors and more things of that sort? Mr Speaker, the old perennial problem also taken out from historical speeches of shortage of beds and cancelled operations. Look, I am glad that he has been fortunate enough in life, assuming that he has been fortunate enough in life, never to have needed a serious operation in a hospital in another place. But he must know, surely, that there is no hospital in the world, he can pick what he regards as the top hospital in London and he can be absolutely sure that operations are regularly cancelled for lack of beds. Does he not know that? Why does he come to this House to make us all believe that the fact that operations have to be cancelled because of lack of beds, inconvenient, unsettling and anxiety generating as it is

unquestionably for the patient affected, but that is not an evidence, that is not a measure either of a bad hospital or even of insufficient number of beds. Whatever might be the number of beds in the hospital, even if I were to put in another 100 beds tomorrow, it is only a matter of time before they were filled with people who should not be in a hospital but somewhere else, so that then when there was then an operation it would also have to be cancelled because of shortage of beds. Does he not understand that? He must understand that. Let me say, of course, that there are many more operations being carried out now than were carried out when the GSLP had the stewardship of our health services. No patient has been discharged without medical justification for lack of beds. It is not true that patients that have a clinical need for remaining in hospital are discharged for lack of beds. It is not true. He can repeat it every year for the next four, it will not be any less untrue. What will the Government do to ensure that operations never have to be cancelled due to bed shortages? Answer, nothing. There is nothing that the Government can do to ensure that no operation will ever have to be cancelled because of bed shortage. Not in the GHA, not in the UK, not in the NASA Space Centre and not in the Houston Medical Centre. Nowhere. When the hon Member has a slightly better, broader and deeper understanding of the health service about which he whacks his lyrical at the moment, he will understand that it is a nonsense to call for a guarantee that no operation will be cancelled due to bed shortage. Then he says social workers, and he takes us in to his review about social workers, again the common denominator is not anything else except things that the Government is responsible for in all the complaints. After 12 years Government has no excuse for not having "broken the backbone of these problems". After 12 years what the people of Gibraltar deserve is a range of tape recordings in the Opposition, with a re-record function and not just a playback function. What the people deserve in Gibraltar after 12 years is an Opposition that changes the record and that says different things from year to year. That is what the people deserve after 12 years. Certainly, what they also deserve and have had over the last 12 years is a Government that has, in spectacular measure and on a

spectacular scale, broken the back of the huge number of problems that we inherited in social services from the GSLP Government days. That is what the people have had. On page 22 of our manifesto, he will see a list of the things that the Government has done in 12 years to "break the back of social services" insofar as it affects the elderly. We have increased their old age pensions by 65.2 per cent; we have abolished tax on pensions income; we have abolished tax on savings income and death duty; we have created the minimum income guarantee which ensures that no old age person does without money; we have given them four opportunities to allow 700 of them to complete their pension contribution records; we have abolished driving licence renewal fees; driving licence medical test fees; passport renewal fees; TV licences; we give them free bus service for over 70s; does he want me to carry on? We have transformed Mount Alvernia, look he comes to us to say that GSD supporters go to him to complain. He does not want to know the number of GSLP supporters who come to us to say "you have rescued Mount Alvernia from where the GSLP Government left it to you". In respect of other caring services, perhaps he can tell me whether he thinks that this goes part of the way, at least, to breaking the backbone. We have increased by over 860 per cent the spending on elderly care service; we have provided them with a wonderful new swimming pool at Westside. We now fund the day centres, not like when the GSLP was in office, that the elderly day centres had to be funded by charitable donations, often from the pockets of the employees themselves. The Government now funds the elderly care day centres. We have established a dedicated Elderly Care Agency; we have employed consultant geriatricians and therapists; we have introduced a system of domiciliary care services for the elderly, a respite facility for the elderly, and on and on and on. Frankly, I do not want him to accuse me of boastful, self publicism, it is just too embarrassing to carry on. In respect of social services, the list of what this Government have done to transform the social services scene in Gibraltar is now legion, however many disgruntled individuals there might be in the Social Services Agency and whatever their political allegiances may be. To which, of course, they are perfectly

entitled and welcome. Really, I do not have the patience. I recommend that the hon Member reads the GSD's manifesto. He says he has, does he? Then I will read it. Let us see now, social services page 45. Well, we have increased the annual spending on social care in the social services from £500,000 in 1996, that is what the GSLP thought was adequate, to £4 million in 2007, of course it has gone up much more now. We have increased the staff from 29 to 156; we have increased the social workers, that he tells us that we have got to increase, from 7 to 19, seven is the number that the GSLP Government thought was adequate, we have increased it to 19. All essential care services that were run by voluntary or charitable organisations have been taken over by the Government. Mount Alvernia, the Jewish Home, Dr Giraldi Home, we have established the wonderful, new Bruce's Farm Rehabilitation Centre. We have established a children's fostering service and a children's counselling psychology service; we have taken children who are in Government care out of an institutional home and spread them around the community; we have set up a court social working team. What we have done for the disability services is huge, not just in terms of expenditure but in terms of practical things. Not least increased the level of disability allowance by over 160 per cent, which the hon Members in the party that now describe us as being guilty of the breach of the offence of breaking every social conscience offence in the book, thought was appropriate to leave frozen and unincreased for eight years in office. The GSLP is not in a position to lecture this Government on social care or care for the elderly. One just does not know where to start, but the one thing I can promise, wherever one starts, our record in office is infinitely better than the GSLP's record in office when it had the chance to practise what it now preaches.

Moving now to the Hon Charles Bruzon. He started his contribution by saying that if the Rules of the House prevent the Opposition from doing what they please, in effect, they should be changed. Well, that is wonderful. So, what he really means is that the Opposition, in the name of alleged transparency and holding the Government to account, should be allowed to do

what xxxxxx. Why do they think that? Does he think that that is the case in the House of Commons or any other Parliament? The Rules of Parliament are the same for all its Members, because in this Parliament we are all Members of the Parliament. There is one set of Standing Orders for all Members. But he will certainly have an opportunity to contribute to the work of the Select Committee that I intend to set up during the course of this year, to bring about the improvements in our manifesto, to the way this House works. By the way, another of these things that they now preach to us is necessary but which is in our manifesto but not in theirs. So what are the people to believe? That what they now say is absolutely essential so that democracy can work in Gibraltar, is only necessary because the GSD won government, but if the GSLP had won government, they had no intention of doing it because it was in our manifesto and not in theirs. It is not the case that the Rules are not inclined as they should be to maximise the opportunity of Opposition Members to hold the Government to account. This is not a deficiency of the Rules. With the greatest respect to the hon Member opposite, it is a defect of their political acumen. Let me give him an example, two I will give him. When was it the last time that the hon Members, any Member of the Opposition, moved a motion in this House, to debate thoroughly and in depth any of these many issues that they think are in a state of chaos in Gibraltar? When did any Opposition Member bring a motion in this House to debate the health service that they think is so terrible, the social services system which they think is so terrible, the economy which they think is in such a terrible state, the parking chaos, the housing chaos? When did they have resort to the obvious political technique of availing themselves of the opportunity given to them by the Rules of this House, to bring a motion to hold the Government to account, for as long as they want, without having to comply with rules about supplementary questions and whether they follow or do not follow from the original question? The answer is that they have not done it. Not because the Rules do not permit it, but because they just have not got the political will or interest to use the Rules to give them the political opportunities that they have. That is the reality. It is all press releases, and it is not just press

releases. The second example that I give him of why his statement is unjustifiable is Question Time. Ya quisieran, whoever she is, MPs in the House of Commons to have the latitude that the hon Members have to question and requestion, and requestion supplementary after supplementary in Question Time. He just has to look at the televised Question Times of the House of Commons to know how hugely better off they are here than in England. But of course, and I acknowledge that three times a year is not the best model, or four or even five. When we eventually meet to change the Rules of the House, I intend to propose a regular submission to Question Time, which is what exists in every Parliament but now that we have our own non-colonial Parliament, it is high time that we should correct this deficiency. But look, even the present inadequate system of Question Time they could put to better use than they do. They ask hundreds and hundreds of questions, always the same ones and always for statistics and hardly ever with any political punch behind them. It is as if they have all become clones of the master number cruncher, their great leader. We sit here giving out answer after answer and we say where is the attack going to come? Surely they have asked for this information to launch a political attack in a supplementary question. It never happens. They are not ready, they are not prepared, they do not care, they just want to put out a press release saying they have asked 563 questions. They should add, the same 563 questions as we asked last time, and the time before that and the time before that. They do not use even the present system in questions or in motions to hold the Government to account. This is not a defect of the Rules of the House, this is a defect of their political stomach, of their political acumen and of their political willingness. Of course, the hon Members should get proper replies to their letters when they write them to Ministers, so long as Opposition Members understand that writing through a member of the Opposition is not a way of getting a correct decision reversed. In other words, that writing to a member of the Opposition, or going to see them, this long line of people. I go down Waterport Avenue quite often, I have never seen queues of people standing outside the GSLP office. But anyway, all these references to the huge number of people that

come to see us, I do not know, some of them are now GSD supporters I do not know whether we should segregate them and keep them in separate queues so they do not come to blows with us. Anyway, I have never seen neither one or two queues meandering away from the front door of the GSLP's office. But assuming that they exist at all, they are entitled to factual explanations. What they are not entitled to is to achieve through the Opposition Member a result different to the one that the administration has already adjudicated against them. That is what they are not entitled to. The hon Member may think that we have let down the people of Gibraltar in failing to provide rental accommodation to them. I do not know if we have let them down, in part we probably have, but I can tell him again, but of course next year he will make the same point, ignoring this, again, that we have provided to the people of Gibraltar many, many more rental housing than the GSLP ever did in their eight years of office. So I do not know whether we are social terrorists, as the hon Member made us all sound when he spoke, or not. Well, forgive me if I embellish the language just to keep your interest in listening. He did say, "he is guilty of the offence of social" whatever. I will come to it in a moment do not worry. No more so, and look, what the GSLP did amongst the better things that they did in their term of office was to promote, through private developers, affordable homes for purchase. Of course that does not help people who cannot afford to purchase, the same people of which he now constantly reminds me. "But there are some people who cannot afford to purchase and what is the Government doing?" The Government has done much more for those than the GSLP ever did. But look, even what the GSLP conceived, well, they gave birth to badly. See, it is not just the fund that is important it is also the result of it has got to result properly too. Look, we are still struggling with the aftermath of their good policy of building affordable homes. Not that they built them themselves by the way, they just contracted and gave private developers the opportunity to do the work and make it as cheap as possible, so that they could maximise the profit. The result is not one of those GSLP affordable housing developments, not Harbour Views, not Brympton, not Montagu Crescent, not Montagu Gardens, none of them have we not had



to spend millions of pounds to repair. Not one. So a good policy, which I acknowledge, but executed ineptly, incompetently and in a way which shattered the dreams of all those first time home buyers who spent years waiting for their new homes. So he will forgive me if we take just a little bit longer than he would like to deliver a real quality product and not one that these buyers are going to spend the next ten years lamenting. I do not know why he holds the Government responsible for the delays in Waterport Terraces. He must know that there is no construction project ever that comes in on time. He must know that the luxury development next to the converted office block, I do not know if we have persuaded them yet to call it the new hospital. So he knows what I am talking about, the big blue block next to the converted office block, does he know how long that was delayed? Longer than this. I have not heard anybody clambering to complain, or does the fact that the Government is the developer, so that it can take responsibility for the quality, something that would have been sensible for the GSLP to have done, does the fact that the Government through one of its companies is the developer, does this somehow make either the Government more responsible than the developer for delays in other developments, or does it make the purchasers, who are Gibraltarians in both projects, less worthy of the hon Member's political protection? So that the Waterport Terraces purchasers are worthy of the Opposition's political protection in the case of the delays, but the also Gibraltarian purchasers in the big blue block next to the converted office block are not. They are just playing politics. Opposition Members are just playing politics on this issue. So that he knows, because he also uses one example to try and make a huge political case. So he comes to this House and there is one man who has been on the medical list since 1997, my heart bled for him. I said to myself, how can there be a man with a medical need waiting 11 years for a house, and why has anybody had one before him? Of course what he did not tell the House, because of course we do not know whether the man told him, hence the danger of just being the loudspeaker for the complaint of every aggrieved citizen, was that that person has repeatedly been offered and repeatedly turned down housing offers to the point that he is no

longer going to be offered any more. Does he not think his political point would have been a little bit less powerful if he had told the House the whole truth? See how the Opposition Members abuse individual isolated cases to make a political song and dance about the Government, and not the staff, mind you, but Ministers' performance.

The Hon Mr Picardo I will deal with briefly for the record, because he is, of course, as he explained himself yesterday, for unavoidable reasons not here. In any case, I was pleasantly surprised by his much more poised performance than in past years. I think, perhaps, he must be trying to look more like a statesman than Mr Licudi, in the hope of that way looking like a more likely choice for the leadership of the party. If that is what has motivated him, let me tell him that he is much more politically astute than I have given him credit for. It is a master stroke to have allowed his rival to be the battering ram this year and to himself adopted a more sedate style of participation in the debate. But I have to tell him one or two things all the same. Look, the Opposition Members, they have been doing this since they lost in 1996, every election they have analysed upside down, sideways, from the top, they have turned the numbers inside out, all to persuade them that this was some sort of electoral aberration which certainly will not occur next time. They have done it again this year. The Hon Juan Carlos Perez, now the chairman of the party opposite or one of the parties opposite, actually used to go round saying, after the 1996 election result, that the GSD would not even last 18 months in office. Such was their belief in their divine right to Government. Well, the hon Member's ability to interpret or misinterpret has not changed the election result. Look, they say, well these guys have beaten us by about 500 or 600 votes, well I know how we can spin that, we will say it was very, very close because then it only takes 300 people to change their mind and we would have won. Leaving to one side this question whether that is close or not, what makes the hon Members assume that the 600 people that we won by, or the 500, would all vote for the GSLP? By halving the difference and saying that half the difference is all the change that is needed for them to win, they are assuming

that all the people who abandon the GSD next time are all going to go to the GSLP, and the history shows that that is not so. The Hon and, now much maligned by Opposition Members, my new Colleague Mr Feetham, has got ten per cent of the vote last time. There are lots of people in Gibraltar who grow disenchanted with the government of the day, who do not thereby transfer their vote to the opposition. So, really, they have got much more ground to make up than they think and we are going to make it very difficult. In fact, so difficult that we do not think they will have it in them between them to make the ground up. In fact, we believe that the ground will lengthen rather than shorten between now and the next polling day. Then there is this point, yes, but he did not get 50 per cent. Oh dear me. Well, in most democracies around the world they would murder for something near 50 per cent. Go and tell Presidente Zapatero next door, or even Prime Minister Blair in England, whether they were elected with a smidgeon short of 50 per cent. The hon Members can reinvent the rules of legitimacy in democracy to suit their own spin. The danger for them is that they end up believing it themselves. It was not that long ago in Gibraltar, before 1988, that elections were almost always won with less than 50 per cent. Many elections in Gibraltar have been won and it is not that long ago that we all used to wait up until the early hours of the morning, to see whether the fifteenth Member to be elected was going to be from one party or from the other. It sometimes turned on a handful of votes, 150 votes. The fact that we have established, we xxxxxxxxxxxx, we are the first Government that were ever elected three times in a row, all the Members in the top eight slots and all of them with more than 50 per cent of the vote. A feat never achieved by any political party before us, and now the Opposition Members want to set it as the yardstick of democratic legitimacy. So that if we slip below that unprecedented record, somehow this illegitimises our Budget to the extent that there is a Member across the way there, who thinks that it is appropriate to mention that it is the first Budget that they deliver with less than 50 per cent of the vote. Meaning, and therefore with less democratic legitimacy. It is infantile, it is an infantile comment. But, look, he cannot have it both ways. I hope his ears are not buzzing now. He cannot

have it both ways. He cannot say that I am a central control freak and that everything that the Government does is decided by me and comes through me, and then say that we do not have legitimacy because we have got less than 50 per cent of the vote. Why? Because the central control freak that he says is responsible for everything that the Government decides and does, does have more than 50 per cent of the vote. I, personally, secured more than 50 per cent of the vote. So if the hon Member thinks that I am in effect the Government and that all these gentleman that surround me, and lady, that surround me are really neither here nor there, which is the thrust of many of their speeches during the course of this week, then they should not be making the democratic legitimacy point because we have got less than 52 per cent, because the one man Government, whom they think is what I am, does have more than 50 per cent of the electoral vote, even this fourth successive term in office. That is a record that they should frankly be admiring rather than trying to ridicule. So, I do not see why the hon Members are so surprised that the Chief Minister takes a controlling interest in the affairs of all the departments of state. The Constitution requires him to do so. Or have they not read the Gazette which allocates Ministerial responsibilities, which includes amongst the Chief Minister's, overall supervision, overall responsibility for all departments of Government. Of course, this, which is the manifestation of the centralising control freak which they now accuse me, was not written in by me. That was also there in the days of their great leader, who presumably was not, in their view, a centralising control freak. Perhaps if he had been a little bit more of that he might have survived a bit longer. The hon Member said that we lacked, again this is another manifestation of "the staff are brilliant and the Ministers are terrible". "They have little political will to match the technical excellence of the people that work for them". But who does the hon Member think compiled, constructed the Ministry of the Environment, which did not exist when we arrived in office? It was the political will of the Members of the Government that created a dedicated Ministry and Department of the Environment, and recruited many of these experts, where they now sit in a dedicated, structured

place to drive Gibraltar's environmental agenda. The hon Member either does not know this or does not care the truth of what he tells this House. Let me say that I personally agree with him on the effect on the view from Jew's Gate of that building that has been built there. My personal view, which is not always reflected despite the control freak that they believe me to be, which is not always reflected in decisions of the DPC, is that that building would have been much better off being smaller, considerably smaller, if it was going to be built, than that, but there are different parts of the Government and of the public administration that make their decisions and the Government lives by them. My personal view is not necessarily the position of the Government. Well I do not know, I suppose, this car which I thoroughly enjoy driving around in, the hon Members cannot imagine how comfortable it is. Of course, true it is that whilst I am riding in the back of it in great luxurious comfort, I have not also got my nose to the exhaust tube so I do not know, I am not breathing in the exhaust fumes, but I think the hon Member makes a little bit of a mountain. So now this Government that has done more for the environment policy development than any other in Gibraltar's history, is now to be judged on its environmental credentials by the fact that we bought a car with a few grams per kilometre of carbon emission more than the four wheel drive vehicle that he drives around in. If the hon Member wants to convert his political position into consistency with what he does himself, he could sell the beautiful car that he owns and drives, I would really love to have that for myself, but there are many cars on the market which emit much less emissions than that does, and I do not think he needs a four wheel drive vehicle to drive around Gibraltar's streets. No. So I think he should start putting his own house in order before he denies the head of the Government of Gibraltar what the heads of most governments around Europe have, and that is a car that is appropriate and suitable for the office. Look, that said, people must form their own view on that.

One of these issues, like the Theatre Royal, the hospital, I beg your pardon, the converted office block, and all of these things, one of these perennial issues that I suppose we are condemned

to having to debate every year, them in the same accusatorial terms and us with the same response, is this business of advertising in the newspapers and whether the dreadful Government in general but the dreadful Chief Minister in particular, uses the Government advertising budget to sort of coerce editorial compliance from the long suffering bullied editors of Gibraltar's newspapers. That is the thrust of the hon Member's political position on this matter. Well, there are two things I have to say to him. Firstly that he should not cite figures selectively either. It is all very well for the Leader of the Opposition to start by preaching that to me, only to suffer the embarrassment of then listening to all of his colleagues do the same, but really, all of his colleagues go on to do it. Look, in the financial year 2007/2008, the 7 Days which he appears to think is the mouthpiece of the GSD, received £33,922 in advertising from the Government. The Panorama newspaper, which presumably he does not think is the editorial mouthpiece of the Government, given (a) that it is owned and edited by the Hon Dr Garcia's father; and (b) that it hardly ever has anything complimentary to say about the Government, earned £39,828. That is more than the allegedly sycophantic 7 Days. Well, given that the hon Members know that I can add up, if I was really wanting to reward newspaper editors for their compliance with Government's interests, do they not think that I would give the Panorama less than the 7 Days? I thought I might get an answer to the rhetorical question, no, quite right, because it was a rhetorical question so the hon Members quite rightly did not give me an answer. Then in the financial year before that, 2006/2007, the 7 Days got £28,963 and the Panorama, that well known bastion of support for the GSD Government, got £45,335. So much for the hon Member's presentation of statistics to try and show that the Government improperly use its control of public funds to further its political interests. But that is what the hon Members themselves believe that we do. But they say that they believe that we do it in the breath immediately previous to making a statement, which if it is not misleading this House must come perilously close to it. I do not know whether they have to bring a motion if it is perilously close or not. The hon Member then went on to use the example of the New People in similar

vein and suggested that the New People, which everybody in Gibraltar knows to be not a newspaper supportive of the GSLP but the GSLP's in-house rag, go out into the streets of Gibraltar and do a vox pop and see what proportion of the population of Gibraltar do not believe that. But nevertheless, he was content to come into this House and tell us that when Mr Clive Golt took over the editorship of the newspaper in 1996, after he had been paid redundancy by GBC to resign in order to stand for election with the GSLP, and failed, and then is from there made the editor of the New People, that the Government is supposed to believe that at that point there was a metamorphosis, there was a transformation of the New People which in that instance ceased to be the rag of the GSLP, which by their own admission it had always before then been, and suddenly became a worthy, respectable member of Gibraltar's objective political press. Well, I do not think the hon Member can possibly believe that himself, but if he is foolish enough to believe it, I do not think anybody else in Gibraltar does. Certainly, the Government will not accept that. Let me give the hon Member a sort of breaking news titbit which we think is at least circumstantial evidence in support of what I am saying to the House. The New People has recently published an article about the Hon Minister Holliday, which the Hon Minister Holliday considers is libellous of him and the matter is in the hands of solicitors. That article was placed by direct link from the New People's website to the GSLP's website. This is the newspaper that has nothing to do with the GSLP, and worse, when the solicitors delivered a letter before action to the New People, it was signed for by the Hon Juan Carlos Perez, Chairman of the GSLP. Well, well, well, is that not a turn up for the books? So what, the hon Members are saying. This is days before the hon Member stands in this House to say that the New People has nothing to do with the GSLP and that I am an abuser of public funds because I denied them xxxxxx, and because on 17<sup>th</sup> May 1996 it transformed itself from a party political newspaper into a member of the xxxxxxxx. It is a shameful distortion of the reality as everybody knows it.

The hon Member may not have any confidence in my stewardship of the finance centre, but his judgement is not borne out by the huge performance, hugely improved performance of the finance centre compared to when somebody else was in charge of it before the GSD Government. He is entitled to his own opinion and I am sure that there are people in the finance centre who "malign me" or worse, I think they vilify me, well, that may well be true. I suspect some of them work with him in Hassans but I do not think that that is evidence of the matter. I am hastening along and leaving out a lot of material because I am conscious of the time. The Hon Mr Picardo said that ministerial xxxxxx, I hope that I have not inadvertently moved him to the terrain of Mr Licudi, no I have not. The Hon Mr Picardo, towards the end of his address, said that he hoped that the ministerial salary had not blunted Mr Montiel's trade unionist instincts in relation to such things as the fire disputes and things of that sort. I am confident that Mr Montiel's trade unionist instincts will not be blunted. I am less confident that the hon Member opposite's lawyer's instincts to earn fees are not sharper than his political instincts, because what this House may not know is that the Hon Mr Picardo used to represent some of the people about whom the Government is now under sustained political attack from the very same party, because of their alleged misbehaviour in the Social Services Agency. In his capacity as a lawyer, he would write letters saying that the Social Services Agency was now completely unjustified, there was no evidence of any wrongdoing, there was no evidence even for a disciplinary charge. Then he puts on his political hat, goes to GSLP executive meetings and says, "let us hit them with the Social Services Agency". So what is it? Is it that he believes that the staff have been misbehaving or not misbehaving? But it does not depend on whether he is a lawyer or a politician; so do not talk to us about blunting instincts from another aspect of one's life. Opposition Members are not well placed to lecture across the floor of this House on that matter.

I now move to the Hon Mr Licudi, who started by saying that he was delivering his speech with responsibility and hope. He said that the hope was that the contribution would not be interpreted

as self praise or critical damnation, I think were his words, but I suspect that the real hope was that he might succeed in the leadership of his party, which I happen personally to believe would considerably enhance his party's electoral prospects, by the way. That is his real hope, and indeed, that is the hope that I think that he is working towards. Good luck to him. He said that the policy of this Government was to provide as little information as possible and to be as negative and obstructive as possible. He said that this was his impression as a newcomer. Well, see, how newcomers must not ventilate their first impressions because they are almost always wrong. But of course, he does not have that defence because what I am about to remind him of was the case when he was a member of the GSLP's executive. When he says that this Government's policy is to provide as little information as possible and to be as negative and obstructive as possible, he obviously, it is just as well that he was not in this House when the GSLP was on the Government side and his great leader was the Chief Minister. When the information available to the Opposition was a fraction of what the Government makes available to the Opposition now, when the Government's willingness and natural instinct to give information to the Opposition was hugely bigger than it was then, and certainly, when the Chief Minister did not consider it his right to deny the right of an Opposition Member to ask questions and his obligation to answer them, simply because he disagreed of his politics. Or does he deny responsibility, as a member of the GSLP's executive at the time, for the GSLP's Government policy decision to deny answering Mr Cumming's questions because they thought he was a palomo. So which Government and which party have instincts to be as negative and obstructive as possible and to provide as much information as possible? The hon Member may wish to draw a line after 16<sup>th</sup> May 1996 and pretend that the rest of it never happened, but life is not that simple. We already have a glimpse at his debating style. Whispering, in my experience, is only noteworthy, is only forensic if it is surreptitious, if it is intended to conflict with what is said outwardly. The hon Member may wish to deny it but having heard the whole of his speech now, I do not think anybody is going to believe him, that he did not mention

the whispering. Ah but what the viewers did not see over the radio was that immediately afterwards they started whispering to each other saying that we made a mistake. Who does he expect will believe that he did not say that in order to give listeners the impression that we were saying one thing to them over the radio waves while a different thing to each other whispering? I see, so he is going to give regular broadcasts over the radio about the volume at which we speak to each other. The purpose of making the remark was to describe the volume in which we were speaking to each other, not the fact that it was inaudible. Let me tell the Opposition Members, if he is going to breach the long standing tradition that what we hear each other say to each other but which is not formally stated in this House does not get abused, we are all going to be in serious trouble. He has broken one of the cardinal principles of Parliamentary coexistence and comradeship. If he did see me whisper something to my colleague, as I often hear them whisper things to each other there, it is not appropriate for him to make political capital. That is my view, but if that is going to change, then it is going to change on both sides of the House. My advice is that we leave it at that and that we regard it as an exceptional event, leave it to a misunderstanding that we have interpreted it in a way that he did not mean, and that we leave it at that and that we do not go down that road as a matter of conscious political decision in this House.

The hon Member is risking the withdrawal of goodwill by the use that he sought to put of the incident involving the tabling of the Employment Survey. It is becoming almost the case that it is not safe to be helpful to the Opposition Members, because the more helpful we are in gratuitously giving them information, instead of not being grateful but at least, no, they want to make political capital about any variation about a practice that we have no obligation to be doing at all. I suppose that if we never gave them any information that we were not required to give them, and except in the forums that we were required to give it to them we would never put ourselves again in the position of having to hear the accusations that he has put about why we did not, why we did and what we were trying to achieve by not tabling or

sending him in advance the Employment Survey. See, so we offer to do things that we do not have to do, there is a mistake in the system and he immediately seizes that as an act of bad faith on the part of the Government. The answer is that if he carries on doing that he will not get that information voluntarily from the Government. Of course, if he is going to make it unsafe for us to be nice to him, then of course we will do the safe thing which is to comply with our obligations and nothing more. The reason why I tabled in advance the other day the Employment Survey, a day or two before, is not because I was expressing a willingness to do something that the Minister had already said he was not willing to do. It was because I was trying to correct what I thought was a bona fide mistake, namely, that we had tried but failed to table them on that day, and because I thought that we had tried but through a mistake failed, when I discovered that what had been tabled was the quarterly statistics, I thought that this might be a mistake, we might have intended to table the other one and by mistake the wrong document has been tabled. What I was doing was simply putting the Opposition Members in the position that they would have been had we not made that mistake, so that they would not suffer more delay by virtue of our error in not tabling the document that I thought we had tried and intended to table. A perfectly obvious explanation, does he not think? Or does he not know that the position that we used to face in Opposition was that these documents almost always got filed after the Budget session, by the time it was historical and too late. I can go back to that if he wants but the policy of the Government is to advance the timeliness of the publication of all public statistics so that they are as relevant to the political use that the Opposition Members are entitled to put them at the time that they put them to that. So he will see that there are many documents, these surveys, the Abstract of Statistics, the publication of the GDP figures, that are all now published much earlier and much more quickly than they used to be published when we were not in Government.

The hon Member said that it was a lacklustre Budget devoid of imagination, which would only hit the elderly and workers worse. The problem is, I suppose, this is a bit like our electoral record.

That we have set the bar so high that people now expect huge give aways every year, and that is a measure of the sustained success of the GSD Government, that people now think that Budgets can only give things away. But look, I do not know if the Budget was lacklustre or devoid of imagination. What I can tell him is that there was infinitely more for workers and the elderly in that Budget, which there was in any of the GSLP's Budgets in any of the years that they were in office. However lacklustre, however unimaginative, however taxing on work and the elderly, it is Father Christmas 365 days of the year in comparison to any of the allegedly socialist Budgets trotted out, which not only never gave anything away, it used to increase. I mean, they did not do Budgets of this sort, but then they used to outside the House raise social insurance contributions every ten years, a tax really on the lowest paid workers because we all paid at the same rate, they never even used to increase tax allowances by inflation so that in effect everyone was paying a higher tax rate burden every year. That is their record in office. I do not boast socialist credentials but what I do boast is that this Government has done more for the elderly, for the socially vulnerable and for the working class of Gibraltar than the GSLP and Mr Bossano have ever dreamed of in their lives. The vast majority of workers in Gibraltar know it, which is why they still do not win elections. That is the inescapable reality of the Government's Budgets. It is not true that it hits the lowest worse because it specifically gives extra tax cuts to the lowest paid, and it is not true that it hits the elderly worse because it increases the minimum income guarantee, it exempts working pensioners from tax. What does he mean? He said it hits worst about the only two categories of people that have actually benefited from give aways in the Budget. How can he say that? I do not know whether he does not know what he is talking about or whether he is just being deceitful, it is the same question. Of course, the difference is that when I want to increase electricity prices because we just cannot xxxxxx increase the subsidies any more so we pass a small share of the costs onto the consumer, I have the courage to stand up in this House and say so and expose myself to the comments of the Opposition Members. When the Opposition Members used

to increase electricity prices, the so-called socialist GSLP Government concerned not to hit the pockets of workers, they would write little Legal Notices that nobody would notice, increasing the fuel cost adjustment. Which they first changed the name of to the flexible cost adjustment. Let us use the same acronymns, see if nobody notices. FCA, yes, FCA stands for fuel cost adjustment, what if we want to increase prices for reasons other than fuel costs? Ah, I know, the F stands for flexible not for fuel, and they squeezed this through one day with nobody looking, and then they used to tweak the FCA, now flexible and not fuel cost adjustment, and deliver price rises to the same workers as pay them today. The difference is that today the workers that are suffering the fuel price rises are paying hugely less tax than they were paying under the GSLP Government, are no longer suffering annual 10 per cent increases in their social insurance contributions, as they used to do under the GSLP Government, and most of them now have an occupational pension to look forward to, at least the 800 or 900 that worked for Government companies than they used to. That is the difference. We used to do it openly and it used to be payable by a working class that is much better off now than it was under the GSLP, and they used to do it surreptitiously, not caring how an over taxed working class felt it in his pocket. See how we have a better social instinct than they do. One just has to look at our record and compare it with theirs.

The hon Member then said in respect of employment and referring to Mr Montiel, that his speech had nothing in substance and that in respect of the reference to the parties of the workers, but he said that actions speak louder than words. Exactly. Our actions speak much louder than their words. The difference is that when we have had our opportunity to put our words into action in support of the workers of Gibraltar, we have done so. When they had the opportunity to put their words into action in favour of the workers when they were in Government, not only did they fail to do so but they annually increased the tax burden of workers, bullied, intimidated workers, discouraged them from joining trade unions, abandoned and abolished promotion and recruitment in the public service and did everything that one

would expect of a xxxxxxxx right wing government. That is what they did when they were in Government. When they were in Government and when he was on the executive of the GSLP, and if he disapproved of what the Government was doing, he should have resigned from the GSLP at the time. So now he bears political responsibility for the GSLP's record in office in relation to the working people of Gibraltar. There is no hiding place for him on that.

The hon Member is wrong and is not telling the truth in this House when he says that the Hon Minister Del Agua instructed that access should be denied, and he says that it has been proved by subsequent correspondence. So not only is he not telling the truth now, but part of the truth that he is not telling is in effect to accuse the Minister of lying, because he says "the Minister said in this House that it was not her decision but subsequent correspondence found her out to be lying". Subsequent correspondence does nothing of the sort. There are two documents in existence. One is a letter from the Chief Secretary to the Chief Fire Officer, which makes it perfectly clear that it was him that instructed the Chief Fire Officer to deny access except under a controlled protocol into the working areas of the Fire Station. It was not the Minister's decision, it was not any Minister's decision. It was a quite proper decision by the Head of the Civil Service, with which let me say, the Government and the Ministers wholeheartedly agree and support. Good leadership of the Civil Service by the new Chief Secretary. The letter, which he claims to have been leaked to him, which he falsely claims shows that the decision on access to the working parts of the station was the Minister's decision, is a bulletin placed on the notice board in the Fire Station by the Chief Fire Officer which says, "our Minister has also instructed us". No, also in addition to the question of access which he says is her decision, which it is not, has also instructed me that these visits include the entire working premises of the station except the social club. In other words, there is political responsibility for the decision only that parties, Christmas parties, should not be held in the vehicle parking bay. But the decision to reverse the casual day to day access by family

members and retired fire officers and others to the station willy nilly, is a decision that has been nowhere near the Minister until after it had been taken and instructed to the Chief Fire Officer. Now these are the facts, he can continue to misrepresent them if he wants, but next time he misrepresents them I will bring a motion to this House which will include sanctionary language, because the Government will not allow the hon Members to ignore information produced to this House, demonstratable by official documents, allow them to ignore it to continue to tell lies because it suits them politically. We will not allow it.

The hon Member is a lawyer but it does not stop him from saying that Agency and Authority workers work in reality for the Government. Well, my Lord, I know that under the law my client is not guilty of this offence but in reality..... I do not know what the words "in reality" mean, he did. Well, either one is an employee of the Government or not. Employees of the Government, so that the newcoming Member understands, are called Civil Servants. Everybody that is a Civil Servant is an employee of the Government and nobody who is an employee of the Government is not a Civil Servant. Clear enough? Employees of Government agencies, Government authorities or for that matter Government owned companies, are not Civil Servants, are not employees of the Government, are not subject to the authority directly of the Chief Secretary as Civil Servants are. They are not subject to General Orders as Government employees are. They are not transferable around the Civil Service as Government employees are. They are not appointed by the Crown acting through the Governor as Government employees are. They are not subject to the same recruitment methods or entry requirements as Government employees are. They are not covered by the Pensions Act that pay occupational pensions as Government employees are. Does the hon Member now understand that there are huge important differences between being an employee of the Government and being an employee of some other organisation which might also be owned and controlled by the Government? Does he understand? It is clear enough. Or does he think that I am at liberty to get an employee into a Government owned company,

which theoretically I can do just by pointing a finger at him, because there are no procedures like apply in the Civil Service. Once I have employed him in a Government company I can now make him Chief Secretary of the Civil Service, because after all, they are all Government employees and if I can transfer Ms Hernandez who is a Social Services employee into the Civil Service, then I can transfer somebody from a Government company or from an authority into the Civil Service. The hon Members may want to make political capital out of every event that happens to the Government that they think that they can embarrass the Government by. But they are not being true to the truth, they are not being true to reality, they are not being true to the system of governance in this community, they are not being true to their own public credibility. The hon Member could say, if he wanted to, "well, you cannot employ Ms Hernandez in the Government" because actually Ministers do not employ people in the Government, there is a Public Service Commission and all that palaver. I do not have the power to transfer Ms Hernandez to the Civil Service. He could have said, if he had wanted, "xxxxxx why could he not give her a cushy job or some other job in an Agency or for another Agency". That might be possible, that might have been possible but that is not their attack and that is not what the Chairman recommended when the Government simply and in perfectly reasonable terms, explained this publicly as it has an obligation to do, which the hon Members now describe here in this House as attacking the Chairman. So, according to the view of life to which the hon Members subscribe, either I allow the population of Gibraltar to think that I have unreasonably refused to induct Ms Hernandez into the Civil Service, or that I have attacked the Chairman. So the Government is not entitled to just explain rationally, unaggressively the facts to the people of Gibraltar, because they are not interested in the truth, they are interested in making political capital and making it as difficult as possible for the Government to defend itself from their abuse of political capital. That is what they are, they are political small men and until they grow up politically, this community is not going to judge them suitable and fit for office.



It is all very well for the hon Member to say that there is a decline in the Gibraltarians in the construction industry and that there is a need for more training. I agree. But at the time that he was a member of the GSLP executive, I know they find it uncomfortable but look, it cannot be that they can go back to 2002 to find one mis-spoken sentence in my Budget speech, but that I cannot go back 15 minutes when it comes to pointing things out to them. I know that it is uncomfortable to them, I know that they are aware that they are asking us to practise what they are now preaching but which they did not practise when they had the opportunity. I know that they understand the political hypocrisy in their current political position. But this is a legitimate device that people of Gibraltar in deciding whether one is fit for office, are entitled to know how one discharged the responsibility last time one's party was entrusted with the responsibilities of office. One cannot just airbrush this away. Well, of course there is a shortage of craft skills in Gibraltar but does he want to know why? Because almost the first thing that the GSLP did when it came into office in 1988, was to close down the Training Centres which they did not re-open, the Construction Training Centre, until the year before the election when everybody was complaining that there was a skill shortage. In 1995. That is why there is a skill shortage in Gibraltar, because the GSLP Government systematically degraded the supply of Gibraltarian skilled craftsmen coming through the system. That is why there is a skill shortage in Gibraltar today. The Opposition Members are responsible for that. We, in contrast, have done huge amounts to try and reverse that and there are signs that they are beginning to now see the fruits of that. Although I agree with his fundamental point that more needs to be done, and will be done precisely because of the hon Member's trade union instincts. That is the advantage of having somebody with unshakeable trade union instincts in the Government. As opposed to people with pseudo trade union instincts who then do not put them into effect when they reach a position of power.

Now, the hon Member says that one of the biggest failings of the Government in the last years has been traffic. Well, apparently

we are responsible for congestion and gridlock. Well, he must understand that congestion and gridlock arise from too many people trying to use their motor cars at the same time. When did any Member of the Opposition last say, the logical thing to say, which is to encourage people to use their cars less? They are not interested. "We do not want to offend any voters, goodness gracious me". God forbid that we suggest they offend the voters of Gibraltar by suggesting to them that they are using their cars unnecessarily, and that one way not just to reduce traffic gridlock but indeed to help the environment about which they think they are such leaders, is to say to people, "please use your cars less". No, no, that which is the logical thing for them to say but which is politically and electorally inconvenient to do so, becomes the Government is responsible, because actually it is very simple. All it takes is a bit of common sense but he never got round to saying what the common sense measures were. See, all that was required was a little bit of foresight and planning. I said, thank goodness for that, at last I have found somebody who is about to tell me what the solution is to this traffic problem. He shut up at that point. The whole purpose of the point was, not to identify the real cause of traffic congestion, but simply to say it is the Government's fault. Well look, we only drive between us ten cars so we are ten something fraction of the fault. The rest are that we are a community wedded to our motor vehicles, that we like to use our motor vehicles, we enjoy our motor vehicles and we use them too much. Therefore there is gridlock and thanks to the Government's economic policy successes, and indeed foreign policy successes, there are many more people that want to visit us and they bring their cars in. But look, then I say to myself "ah well look, this young man obviously knows that Gibraltar has a severe traffic problem, chaos, gridlock, congestion". Here is a man who hoped to be here now on my side of the House. He wanted to win the October election, his manifesto must be jam packed of measures to remedy this traffic congestion, gridlock and failing, which all that is required is a little foresight and planning. So I go to the manifesto, again, I knew the answer already of course but just for theatrical effect. I go to the manifesto again and my first thing is, this is a very thin document for a party that really

thought that they could win the election. Never mind, perhaps the typeset is smaller and there is more jam packed into it. There must be pages and pages of what they are going to do to relieve the traffic and parking problem in Gibraltar. Let me see, oh my god, I have gone more than halfway and not come across anything. Oh dear, there is nothing at all. So as always the GSLP sort of think that they are a better Government but on the basis of a wing and a prayer. It is just as well that he lost the election because as a result of the GSD winning the election, the people of Gibraltar now know exactly how the Government is going to solve the parking and traffic chaos in Gibraltar, because there is one, two, three, four, five pages worth of specific projects, parking projects, traffic schemes, parking schemes, to make huge inroads. This is why they are not going to win the next election either, by the way, because we will have solved this problem four years from now. But the point is that the hon Member comes to this House, bludgeoning us politically on an issue for which they had absolutely no intention to take any steps had they won office. That is the nature of the gentleman's political style, fine, we will deal with that for the next three and a half years. Then, not content with that unhappy scenario for him, he then said, "and they only spent £26,000 on traffic enhancements". This is again an indication of lack of investment, see. Well, where did the new road in the Upper Town come from, from thin air? This road that for the first time in Gibraltar's history means that the good residents of Moorish Castle Estate and Willis's Road do not have to spend their lives reversing out of each other's way when they meet head on along Castle Road. Who does he think built and where does he think the money came from to build the new road, up behind Tankerville House, which has allowed the Government to make a one way system so there is no longer any conflict of traffic in the Upper Town. Where did he think the new road through Chatham Counteguard came? We are the only Government to have built not one but two new roads in any term of office. There are more new roads coming in the manifesto. He knows. Then he heard some mention of Dudley Ward Tunnel so he thought he would throw that in. Of course, the delays for the Dudley Ward Tunnel is also due to the Chief Minister's control

freakery. Well, I intend to take much more interest in it from now on. Dudley Ward Tunnel, as he knows, assuming that he bothers to follow public affairs whilst he is in his office making money, must know that it has gone out to tender and that the tenders are under consideration. Does he not know that? What has that got to do with the Chief Minister's control freakery?

See, it is all the delayed philosophy and we know that the GSD may take a bit longer to do the huge amounts of projects that we do, because this is another point that I intend to finish with. That is the point that I will be finishing with. The Opposition Members should not recommend to us their style, which has demonstrated that everything that they used to do was rushed, too expensive and then wasteful of the need to have to repair it. We would rather do things just a little bit more slowly and properly. For example, take the In Town incinerator. Remember the one up the Rock? £22 million of public investment down the chute. We ended up having to pay compensation. We ended up having to compensate the developer, In Town Developments, the developers of Europort, because the Government had simply provided them with incorrect information about Gibraltar's ability to provide the quantity of refuse, and therefore the plant was designed to need more refuse than Gibraltar could deliver and therefore broke down as soon as they tried to use it. I could give the hon Member a veritable catalogue of millions and millions of pounds of public money that has had to be wasted to make good the bad, hasty, ill thought out, ill executed decisions of the GSLP when it was last in Government.

Well, I am not going to have a long debate now about bus stops and all of that. Look, I do not know whether the hon Member is right or is not right when we call buses, little tourist buses of the type used, the public service vehicle used for tourists, I do not know whether that is rightly called a bus or not. I do not know, therefore, whether the fact that it says "bus" on the road means that it is as funny as the hon Members obviously found it, to describe these things as bus stops. All I can say is that when his colleague Mr Picardo acted in a Transport Commission hearing objecting to the issue of licences to such vehicles as he

now thinks are not buses and should not park in bus stops, he used to call them buses. Mr Picardo, "obliged", Mr Gaggero, "you recall that we talked a lot about who had possession of the buses". Mr Picardo, "so you control the area where the buses are presently kept". Mr Picardo, "who has the keys to the buses Mr Gaggero?" Mr Picardo, "okay but clearly the buses are in your possession". Mr Picardo, "actually I have a legal document showing your title to the buses". Buses and buses and buses and buses. So I do not know whether he is right or wrong, but at least he should lecture his honourable friend before he takes the trouble, for which I am grateful, to educate me.

Mr Speaker, the hon Member I think strayed into dangerous waters when he tried to suggest that there was inconsistency between what I had said in my New Year message and what my colleague Mr Feetham said in a subsequent television debate about the Government's policy and intentions in relation to lowering the drinking age. The hon Member may think, I do not know whether he thinks it or not but he certainly feels entitled to declare in this House that the Chief Minister's standing is already very low. Curious, for somebody that has just been returned to office for the fourth consecutive time, with more than 50 per cent of the votes, allegation to be made against such a person by somebody that has just failed to persuade the electorate that he is any better than the person with a very low standing. So I do not know whether he really thinks that I have a very low standing, but I think he needs to ask himself if my standing and my party's standing is so low in the esteem of the electorate, why is it that he cannot beat us in an election? See, the hon Member tried to give the impression of a Mr Feetham undermining publicly his leader, when the reality is that the only Member of this House that has recently undermined in public his leader has been him, by expressing the hope and expectation that he would not be the leader of the party at the next election. So, this is not even throwing stones in glass houses, because if one throws a stone in a glass house, one has at least the possibility of missing the glass and it will not break. But what the hon Member has done is guaranteed it to break. It is worse than throwing stones in glass houses. The hon Member has the

audacity to accuse the Hon Mr Feetham of doing what only he has done to his leader. I do not know what the consequences will be. I personally applaud his courage, let me say, and I think it is exactly what the GSLP needs but that is not for me to interfere in.

If I could just quickly go through Dr Garcia. Not because I hold his words to be any less significant and important but because it is 14.40 hours. This apparently is a Budget in which everything goes up. But why could he not just say some things go up? Why does he say everything, which is not true? Everything does not go up in this Budget. Quite a lot of things went down. Mind you, amongst the things that went up is the minimum wage, which they never used to do anything about. So amongst the things that went up was the Minimum Income Guarantee that they did not think was necessary to protect elderly people in Gibraltar from financial impecunity. The hon Member gave us his now usual, I think this is his annual exercise of his party leader's prerogative, which I certainly would not wish to deny him. This straying in the Budget debate into matters of external and constitutional political affairs, is I think his annual and deserved stray into party leader politics. I have to say to him that the Opposition and the Government have, as he quite rightly says, a very different position on this and that the actions of the Government are going to start in the future bringing that position difference into sharper and sharper contrast. We believe that not only does Gibraltar now have the relationship with the United Kingdom that the people of Gibraltar want to have, in other words, British sovereignty, constitutional recognition of our right to self-determination but almost complete self-governance of Gibraltar by Gibraltar, but the Government believes, regardless of whether the United Nations is willing to recognise it or not, that Gibraltar has now been decolonised by virtue of being in a non colonial relationship with the United Kingdom, and that the United Kingdom thinks so too. All of this might be relevant. I know that the hon Members have a tendency to immediately sign up to what the Spaniards say. I noticed they have done so again in this letter that the Spanish Ambassador to London has sent to the Foreign Affairs

Committee. Immediately a statement, not ringing the Government and saying they are showing some solidarity, immediately writing siding with the Spanish Ambassador, see, it has weakened Gibraltar's case, well watch this space because the Spanish Ambassador is not right, the Spanish Ambassador is wrong. I would expect Opposition Members to have the stature to recognise that when they hear the position next week. Anyway, staying on the Constitution for a moment, the hon Members may be interested to know, and it is about to be made public in the House of Commons in the United Kingdom, that is to say, the text of the report that I have alluded to in this House before, the UK's annual report on Gibraltar. We already know that the UK have been saying, "we believe that this is a modern relationship which is not based on colonialism". When I said, well if it is not based on colonialism we cannot be in a colonial relationship, since how can we be in a colonial relationship if it is not based on colonialism. They huffed and they puffed, that is the Opposition Members, not least the editor of the Panorama newspaper. They huffed and they puffed, but it does not mean this, it does not mean the fact that we are not in a colonial relationship. So, the aforementioned journalist asks a question to Mr Murphy, the Minister of State, "but does the fact that we are not in a colonial relationship mean that we are not a colony? Come on, come clean". When the Minister says, "well look, if we are not in a colonial relationship how can you be a colony? So that means then that we are not a colony. Yes". They still do not accept it. I do not suppose they will ever accept it until they hear it on the mouth of the Spanish Foreign Minister. That is in effect their position. Or on the lips of such paragons of virtue as the Ambassador of Iran to the United Nations or Indonesia, or some of these other paragons of human rights and democracy, to whose court they prefer to submit than the statements in public of the British Foreign Ministry. They have gone further now, because the covering letter under which the United Kingdom has submitted the annual report to the United Nations, a report by the way which has been drafted by the Government of Gibraltar and not by the United Kingdom, it is sent under cover of the following letter which I will read for the purposes of placing it on Hansard. It is addressed by the UK

Embassy to the United Nations, UK Mission to the United Nations to the Decolonisation Office of the United Nations. "The Charter requires Member States to transmit information under Article 73E, in respect of territories for which they are responsible which have not yet attained a full measure of self-government. Since Gibraltar remains on the UN's list of non self-governing territories, and the United Kingdom is thus obliged by the terms of the Charter to continue to do so, I am attaching a report on Gibraltar. This report has been compiled by the Gibraltar Government." It then goes on, "however, in doing so", that is to say in submitting the report, "I would draw particular attention to the adoption of a new Gibraltar Constitution which came into force on 2<sup>nd</sup> January 2007 following its earlier approval by the people of Gibraltar in a referendum conducted by the Gibraltar Government. Our view", that is to say the view of the British Government, "is that this new Constitution provides for a modern relationship between the United Kingdom and Gibraltar, which is now", meaning now by virtue of the new Constitution, "non colonial in nature. Accordingly, " that is to say accordingly in the context of what I have just told you, the new Constitution, "the United Kingdom does not believe that Gibraltar should remain on the UN list of non self-governing territories". A clearer statement that it is the Constitution that results in the non colonial relationship, and that as a result of that non colonial relationship brought about by the Constitution, the UK does not believe either that we should be on the list or that they should be reporting to the United Nations, but that they do so only stating that they do so because they are required by the Treaty to do so, one will not get a clearer statement. Then it has been said, ah but of course, that is not true because it is also true of St Helena, because the United Kingdom says that of all its territories. No it does not, because the very next paragraph says. "Aside from these Gibraltar specific considerations, the UK does not consider that any of its overseas territories should remain on the UN list. It regards the approach taken by the Committee of 24 towards these issues as outdated". "Aside from these Gibraltar specific considerations", meaning that in the case of Gibraltar they do not think we should be on the list for a different reason, namely the new Constitution.

Now, the hon Members may wish to wait to recognise the realities until never, because the United Nations Committee of 24 will never decolonise Gibraltar in a way of which he and I would approve. They must know that so why the hon Members persist in denying the people of Gibraltar recognition of this hugely improved position, which to boot puts them in the relationship with the United Kingdom and rather leave it to the jury of the United Nations, which they know will never deliver that, beats me and the majority of Gibraltarians.

The Government, he thinks, may have behaved as if building spaces do not matter, but the hon Member should not forget that the only Government that has consciously created open spaces in Gibraltar has been this Government. Westview Park, Casemates Square and the John Mackintosh Square. The Government, he says, has changed the face of Gibraltar as we know it. Indeed we have. It is called progress, it is called development, it is called the same thing as it was called when previous Governments of Gibraltar built Queensway Quay, built the reclamations, built the ICC and built all past developments in Gibraltar, which also changed the face of Gibraltar. What is wrong with changing the face of Gibraltar, or were they hoping that it would stay looking like a 1950s colonial backwater forever? We have not lost £3 million of Government revenue by having exchanged the flats at Rosia Cottages for the four MOD houses. We will see what the cost of that operation has been when we sell the four cottages at Rosia Cottage. There is no inconsistency in Government policy on disposal of MOD properties. Some properties are sold with resale restrictions and others are not, and there is perfect consistency. The properties that tend to be single houses, but not exclusively, but anyway the properties that are put on the market to be sold at the highest price that the market will offer for them, therefore, the properties that are purchased at full market value are sold without a resale restriction. The properties that the Government do not test the market price on, precisely to give people with less money a chance of buying properties without having to compete with the market price, and which therefore contain an element of subsidy, like Rosia Court, are sold with a resale

restriction because they have an element of public subsidy. Namely, the Government have decided a price less than the market so that people could buy them at less than the market price, because otherwise they would not get a chance of buying them competing against the richest people that can pay the most. There is no inconsistency, there is perfect logic. The very logic that the Hon Mr Bruzon keeps on recommending to me. To do things for the people who are not richer than those who xxxxxx. But the hon Member sitting next to him but one, says that that is inconsistent policy. I keep on telling him these things. This is not the first time I tell him. Does he care? Of course not, next year he will make the same stupid point ignoring the reality of what he has heard.

The Hon Dr Garcia was not gracious enough to allow the accolade to the outgoing Minister for Tourism to pass without little comment. Well, how ironic that the principal fact that he uses to demonstrate that Mr Holliday has not been the most successful Tourism Minister ever, is the fact that between 1988 and 1996, let me reach for the statistics, he is not very good with figures the hon Member opposite because both his attempts at demonstrating his point with figures, they are going to blow up in his face, tourism expenditure between 1988 and 1996 he pronounced, increased by 320 per cent and during the years that Mr Holliday had presided over it, only by a measly 27 per cent. See, the man is not the best Tourism Minister in Gibraltar, he is the worst. How ironic then that having made such a song and dance about the error in the 1996 Tourism Expenditure Survey, the one that runs every year, the £160 million the 1996 figure, the one that we debated for so long, that is constantly thrown in our face because the Government had to admit that the expenditure was exaggerated, is the one that he chooses as his base line to calculate the 320 per cent. A figure which he knows is wrong, because he has been making political hay out of it for the last 12 years nearly. All that business he will recall about whether the samples were big enough and all of that, remember? That is the figure that produces the 320 per cent that demonstrates that the Hon Mr Holliday is a very bad Tourism Minister, notwithstanding the fact that everybody else in

Gibraltar can see that there are more tourists than ever, that there are more cruise ships than ever. Never mind the realities on the ground, let us use and distort statistics and he used and distorted. Just as well he got up to correct it because I was going to correct him in much less friendly terms. Let me just say that he corrected it, not because he spotted the mistake but because the Hon Minister, Mr Britto, had the decency to tell him about it after he had finished his speech. Instead of recognising that, he sounded in his retraction as if he had spotted it himself and was retracting an error. What does he mean no?

**HON DR J J GARCIA:**

Can the hon Member give way?

**HON CHIEF MINISTER:**

Yes I will.

**HON DR J J GARCIA:**

I did not mention the Hon Mr Britto for a very simple reason, that is that I was not sure whether the Chief Minister was actually aware that I had been called by him or not. That was the only reason why I did not mention it. Secondly, it was not until I checked my own calculations and my own written handiwork that I discovered that it was there. That is why I came up to the House to correct it on record.

**HON CHIEF MINISTER:**

Well, with the greatest of respect, that did not prevent him from acknowledging Mr Britto. By the time he came to the House and stood up earlier this morning to correct himself, he had already done his calculations, he had already checked that he was

wrong. Or is he saying that he gave the speech and then went off to check the accuracy of his figures, without prompting by Mr Britto, and that he did not recognise Mr Britto's magnanimity in his favour, only to protect Mr Britto's confidentiality? Presumably so that I would not.....

**HON DR J J GARCIA:**

I was not sure he would be as magnanimous.....

**HON CHIEF MINISTER:**

But what difference does it make? He alerted him to a mistake which he need not have alerted him to, need not have given him the opportunity to correct and which the hon Member was not big enough to recognise. I think that that is deeply regrettable. Anyway, so we now know that he does not know how to calculate the flow rate of passengers against time across the border, and that he calculates Mr Holliday's performance as a Tourism Minister by reference to statistics which he knows to be wrong. So he will not mind if I prefer to stick with what he claimed my sweeping claims of success not to be believed.

It is true that the hotel occupancy figures are patchy but I think the hon Member should be aware that I think we ought to start treating these occupancy figures with a pinch of salt. I will tell him why. I think what is happening, I do not use this in any sense to re-interpret the figures, but I think the Government is becoming suspicious that what is happening is that hotels are preferring to keep rooms empty and available for commercial business, for business occupiers, even at the risk of them not filling them but having the opportunity of earning the high yields that come from the business traffic, than giving them earlier in advance to tour operators to sell to tourists at a necessarily low and fixed rate. In other words, they are consciously sacrificing occupancy rate for yield per guest. We need to get to the bottom of this. Not because they are not entitled to do it, but

because we need to understand what economic significance can and cannot be attributed to this. In other words, if the hotels through their own commercial practices have stopped applying a premium, if I could put it like that, to occupancy rates and in their business models now attach more importance to other factors, which leads them to massage down their own occupancy rates, then we need to understand that so that when we debate these things politically, we understand the consequences and the nature of what we are debating.

Mr Speaker, I acknowledge that the La Linea bus is very expensive per passenger. But of course, nobody pretends that it is there for commercial reasons. It is there as part of a political deal. It is there as a political commitment and had we not entered into it, the Airport Agreement could not have been done until the new terminal was built, and the buses was what we used to persuade Spain to advance its implementation of the Airport Agreement before we were in a position to deliver physically the terminal.

Mr Speaker, the airline operations, EasyJet and GB Airways, well of course they are different operations. The hon Member cannot convert himself into an agony aunt for every travelling member of the public who has an unpleasant experience with an airline. Why does he do that with airlines and not with customers of shoe shops? Why does he think the Government is responsible for the quality of the customer experience in an aeroplane but not in Morrisons? Why does he not come here to say to me, well an ex GSD supporter came to my office in this long queue that I have never seen, to tell me that they were in Morrisons the other day and they asked the shop assistant for a can of baked beans, and this lady walked away and gave them instead a tin of butter beans. Why does he do the equivalent of that in the airline industry but in no other sector, as if the Government was responsible for the provision of and the quality of service that airlines give? I do not know why he has got himself into this mindset. Look, I wish he would stop calling it a subsidy. There is no subsidy being paid to EasyJet or anybody else. The Government has simply lowered the airport landing

fee tariff for everybody. Not for EasyJet, for everybody. There is no subsidy. There is no published price and then we charge a difference – that is the price. That is like saying, well when the Government lowers taxes it is subsidising the taxpayer. The Government has just reduced the price. As he has already been told, if he believes that with low cost airlines that hold airports like Heathrow and Gatwick to ransom, the problem with the hon Member is that he thinks Gibraltar is squarely in the centre of the universe, and that the whole world exists to bow and kowtow to us. EasyJet is the most successful low cost airline model in the world, they do not xxxxxx, there are others who do, but in fairness to EasyJet they do not, that negotiate hard with airport operators to secure the lowest possible fee structure for them, because obviously that is how they are then able to translate that into low fees. The Government welcomes that. But what makes the hon Member think, accept this view that is all too prevalent among some people in Gibraltar, that we are in a position from Gibraltar to dictate to the whole world about their business models, about their politics, about their this and that as though they all owed us a living. Does he think EasyJet has a great need to fly to Gibraltar? They are flying to Gibraltar and I think that it will be a commercial success for them, much more than they themselves believe, because they want to continue to support Gibraltar because they did not want the purchase to result in a withdrawal of the service, and British Airways now running a parallel service. So for the first time ever passengers have a choice. A choice between the comfortable, high quality, high passenger experience that he appears to favour, and that he is free to use if he wants to pay for it, but there are people who regard aeroplanes increasingly as buses with wings on it, and want to fly as cheaply as possible and who hugely welcome having the option now to fly to England on the cheap low cost model or on the British Airways full service model. Instead of welcoming that for the first time the people of Gibraltar have this choice, he is now going to set himself up as the EasyJet ombudsman. He is going to make himself the judge of who got the stale sandwich, who had to rush to his seat. Look, I flew on EasyJet to Geneva from Malaga, they have got something called “easy boarding”. Well it is not easy boarding, or quick

boarding, speedy boarding, it has become part of folklore now. Basically it involves paying an extra £10 or something, then one is allowed to rush to the aeroplane to find the seat before everybody else. In some airports it actually works very poorly, as a frequent flyer was telling me, Malaga in particular. When they go out on buses, of course easy boarding means that they let one through the gate first. So one is let through the gate first which means that one goes into the bus first, then into the bus come the passengers who have not got the easy boarding. The bus then goes to the aeroplane and the doors open. Now who gets out first and who gets out last? This is very interesting but there are people who prefer to submit to that sort of experience and save a lot of money, and the Government welcomes it. EasyJet is hugely welcome in Gibraltar. Not only because it gives us more connectivity but because it allows people in Gibraltar the opportunity to fly at reduced cost. The Government is not going to join the hon Member opposite in insulting EasyJet, simply for applying in Gibraltar the same model that it applies to all its other 200 destinations, none of whom have a spokesman on the Opposition Benches who set themselves up as the EasyJet ombudsman. If one does not like it, fly on British Airways, now one has the choice, and if one does not like British Airways fly on Monarch. So leave EasyJet and do not defend them so that those people who want to fly EasyJet will continue to have the opportunity to do so. He should not worry for too long about the few people that have lost their jobs in the airport. Or perhaps he thought that the Government could stop Bland Group selling its airline to EasyJet, unless EasyJet first agreed never to make anybody redundant. Why should they? There are people who are being made redundant in the economy of Gibraltar, thankfully in very small numbers, all the time. I do not see the hon Member saying, why is the Government not bullying the shoe shop on the corner for making the shoe salesman redundant last week? But apparently in the case of airlines, one redundancy, that is all the difference. Well look, if the hon Member thinks that Gibraltar Airport should have a resident aircraft engineer, he should be saying to the Government, "you have an engineer". I do not see why we should expect EasyJet to maintain an engineer in Gibraltar if they do not think it is

necessary for them. But he can rest that when the new airport is built, the one that they are opposed to, there will be a huge increase in the number of jobs. I hope then he will give us the credit. The same credit as he is now giving us political criticism for the loss of these two or three jobs. But no doubt we will continue to see him perform his agony aunt role in this matter.

Of course, the significance of the new calculation. The significance of his miscalculation, the difference between 17 people per minute or 17 people per second is not just a statistical correction, because he did not withdraw the point. In his mealy mouthed withdrawal, in his mealy mouthed correction, which did not recognise the role played ....., he did not say and therefore I accept that the point does not have the political validity that I meant it to have. He corrected the number as if it made no difference to the political use to which he had made the point. Does he not realise the point that he was making, he was rubbishing the 9 million visitors across the border by saying that it is not possible, because 9 million requires 17 people a second. We all said, ah, 17 people a second round the clock, the numbers must be wrong. But of course, if it is 17 people a minute then it is not quite so ridiculous. So it is not just a question of correcting a little mistake as if to correct the record but otherwise leaving it intact. The effect of the fact that he multiplied by 60 once too often when he was establishing the figure into which to divide the 9 million, is that his whole point is destroyed and he has not had the political magnanimity to say, I withdraw the allegation that the 9 million must be wrong because it is not physically possible. Even in his correction he has not had the political integrity that his mistake requires of him.

Mr Speaker, the hon Members, it is the same argument. The historical number crunch, delays, the hospital is in the wrong place, the Theatre Royal, every aggrieved individual's bandwagon is to be jumped on and portrayed as evidence of systemic failure, driving people to Spain. That is all they know how to say that is their whole political message. Nothing but stale repetition, nothing but arguments that the electorate have



already rejected, some of them four times. The hon Members, those of them that are not lawyers, the problem is that those of them that are lawyers do it as well. One of the first things that lawyers are taught in court is that repetition does not strengthen the persuasiveness of one's argument, and that therefore, the hon Members' repetition of points like the Theatre Royal fiasco, does not persuade any more people. The people that agree with him have already agreed with him, he is not going to persuade any more people on that point, and the people that agree with him that the hospital is in the wrong place already believe it, and those that do not do not and will not because he carries on telling them every year. There is no vision, there is no leadership, there is no direction to this party. Mr Bossano believes that we do not know what we are talking about. Mr Linares believes the people of Gibraltar feel fed up with us, that we know how to do nothing but spin and benefit the rich and that we deliver pittance to the community. Mr Costa believes that we are an incompetent administration and, indeed, a worn out administration. Well he should watch this space during the next three and a half years. Mr Bruzon, who somewhat sanctimoniously calls for the outbreak of love and peace across the floor of the House, believes that we are driving people and immediately goes on to say that we are driving people to Spain, that we should be ashamed of ourselves for failing the people and that we are guilty of the offence against every law of social justice. Well I must say, he does not feel very huggable to me across the floor of the House, if that is the sort of thing that he is going to want to say. Mr Picardo believes that delay is a trademark of this Government because everything has to go through the Chief Minister. Yet, despite being incompetent, worn out, despite people being fed up with us et cetera, we have delivered more in 12 years of Government of Gibraltar, in both quality and quantity, in every aspect of life in Gibraltar, physical, economic and qualitative, than any Government of Gibraltar ever has before in any 12 year period. The mind boggles at how much we would have done if we were even quicker.

Mr Speaker, I will end with one remark. The Hon Mr Licudi says that we are so arrogant that we do not have the humility from

time to time to accept and acknowledge our mistakes. Is it too much to expect from the Government? He asked. Well, it is not too much to expect from the Government, we have done so. On numerous occasions in the matter of housing I have, with humility, acknowledged the Government's political regret at many aspects of our policy in relation to affordable housing. The people who have not had the humility ever to accept their mistakes, and from whom it is too much to expect humility, is the GSLP. The people of Gibraltar are still waiting for an act of humility from them in relation to the fast launch smuggling.

Question put.

Agreed to.

The Bill was read a second time.

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

Mr Speaker, I would accept your indication that you prefer to break for a refreshment and a lunch, but if you wish to continue, I am happy to continue. The Opposition Members may wish to express a view. Would they like to continue straight into the Committee Stage or would they prefer a break for lunch?

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

We prefer a break for lunch Mr Speaker.

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

The Hon Members request is reasonable. I therefore beg to move that the House do now adjourn

The House recessed at 3.15 p.m.

The House resumed at 4.15 p.m.

**MR SPEAKER:**

I am told the Chief Minister may have departed from the script.

**HON CHIEF MINISTER:**

The Clerk is as always correct. Before moving the Committee Stage I have got to beg the House's indulgence to take the Committee Stage today, because it is still subject to the next day rule. So with gratitude to the Clerk for pointing that out, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put.

Agreed to.

### **COMMITTEE STAGE**

**HON CHIEF MINISTER:**

I have the honour to move that the House should resolve itself into Committee to consider the Appropriation Bill 2008, clause by clause.

### **THE APPROPRIATION BILL 2008**

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

### **Clause 2**

CONSOLIDATED FUND EXPENDITURE

### **HEAD 1 EDUCATION AND TRAINING**

### **HEAD 1 – A EDUCATION**

### **Subhead 1 – Personal Emoluments**

**HON S E LINARES:**

Mr Chairman, I would like to flag up on subhead (d), which is the temporary assistance, of which the Government have put nominal amounts on (ii), (iii) and (iv) of £1,000 as opposed to what has been happening before where they budgeted for these within this page. I have obviously subsequently found it in the supplementary provision. Just to ask the Minister why this is the case and why this is being done?

**HON C G BELTRAN:**

These subheads have been moved centrally to Appendix F.

**HON S E LINARES:**

Yes, but the problem that I have is that, for example, on maternity which is just an example, how would these monies be appropriated straight away?

**HON CHIEF MINISTER:**

No, maternity is not a good example because that usually has quite a lot of advance notice of it. The need for maternity leave does not arise in an unforeseen way. A better choice would have been temporary cover for other absences, which might well arise in an unforeseen way.

**HON J J BOSSANO:**

Surely, if for the hon Member, it is not a good example because one gets quite a lot of notice, is it that when they put this book together they thought there had been a sudden collapse of births and that is why instead of £150,000 which they put last year they put £1,000 total.

**HON CHIEF MINISTER:**

It is in the.....

**HON J J BOSSANO:**

I accept that but the argument that the hon Member used when I asked for an explanation was that the idea was to establish, by having people going through the need to ask for the money, whether there was really a necessity for this. Now, the hon Member has just told us that the explanation that he has given us clearly is not relevant to maternity, unless he thinks people are manufacturing children on the quiet.

**HON CHIEF MINISTER:**

No, that is not the case. My answer is relevant to the Hon Mr Linares' reason for wanting to know. The question that he asked was, in effect, what is the process for applying for these monies to make sure that it is available when it is needed? What the Leader of the Opposition is now saying is, in that case why is it not left here since we all know we have got nine months for warning.

**HON J J BOSSANO:**

If they put £150,000 there last year, and we looked at the previous year and it was £176,000, we looked at the outturn and it is £300,000, what is clear is that the argument that was used in justification of the change in his right of reply, which was well, we want to make sure that it is really needed, well they know it is really needed.

**HON CHIEF MINISTER:**

Well, we know that some is really needed.

**HON J J BOSSANO:**

Does he mean people are taking maternity leave without having children?

**HON CHIEF MINISTER:**

No, but the need to replace an absent teacher because she is on maternity leave may be subject to a judgement.

**HON J J BOSSANO:**

So the maternity leave is what triggers the replacement and we are just saying not necessarily in every case.

**HON CHIEF MINISTER:**

Absolutely. If he wants to know what the decision making process is at the coal face for deciding when somebody should be replaced who is on maternity.....

**HON J J BOSSANO:**

Is it not a fact that as we are sitting here debating the vote of £1,000.....

**HON CHIEF MINISTER:**

It will be more than £1,000.

**HON J J BOSSANO:**

Already?

**HON CHIEF MINISTER:**

Possibly, it may well be.....

**HON J J BOSSANO:**

Which is one of the things that I mentioned. I said they are bound to have been using the provision of the year before, using the flexibility.....

**HON CHIEF MINISTER:**

It may well be that since 1<sup>st</sup> April, more than £1,000 has been already spent on each and every one of these three. In which case, there will be a supplementary funding statement.....

**HON J J BOSSANO:**

Presumably, before the passing of this Act, the mechanism of the supplementary funding did not exist so that would not have been there. It must have been done departmentally.

**HON CHIEF MINISTER:**

They were told that they should not do it that way, I think.

**HON J J BOSSANO:**

Then if they were told they should not do it, I dare say they would be too scared to do it. But legally there is nothing to stop them.

**HON CHIEF MINISTER:**

Well they still need the warrant from the Financial Secretary. I think one still needs the warrant from the Financial Secretary to spend up to three months. This is not the power of the department.

**HON S E LINARES:**

Mr Chairman as well, I would like to ask.....

**HON CHIEF MINISTER:**

If the hon Member will allow me to interrupt him? What the Leader of the Opposition said the other day is correct, we could easily have put any amount. I mean, for maternity we could have put £100,000 I would have thought, quite safely. We could do that but there is just no purpose, we might as well just put a token and feed the whole lot. Otherwise we would end up with one sum, part of the sum in one place here and part of the sum, that is available because there has been a provision for this in the supplementary funding, the supplementary funding provision has been inflated by this amount. Part of it would be over there so we just decided to leave it all over there. This is, in any case, an experiment. It may not happen like this in the future, as I said this morning, until we have worked this out. On that basis we thought it better to put it all here.

Subhead 1 – Personal Emoluments

**HON S E LINARES:**

Just as well, I see that taking away the monies that we have just been discussing, in the personal emoluments there is the total which is £14.8 million roughly and now that is the forecast outturn and the estimate last year was £14.3 million. This year it is £14.4 million, is this including the TLRs that are currently being awarded to teachers? Is it included in this part or is there any other provision somewhere else that has to be included in order to put in the TLRs?

**HON C G BELTRAN:**

Yes, the new sum for 2008/2009 does take into consideration the fact that TLRs and the salaries..... Payments will be made and, in fact, are already being made since 1<sup>st</sup> April.

**HON J J BOSSANO:**

While on the salaries of the personal emoluments, in the Consolidated Fund supplementary provision No. 1, there is an amount of £379,320 for the year just ended, 2007/2008 on personal emoluments and the explanation given is, salaries provision underestimated. Now, it is there in personal emoluments and it is also in the subhead 2 industrial wages. I find it difficult how it is that with the same number of people working, as industrials and as non industrials, in 2007/2008 and 2006/2007, I can understand the estimate may be out by a couple of thousand pounds but we are talking about, between the two of them, about £460,000.

**HON CHIEF MINISTER:**

I am being told that there are, in fact, two pay settlements included in the forecast outturn. Hence the underestimation.

**HON J J BOSSANO:**

I assumed it was not a pay settlement because, in fact, it came from the supplementary funding rather than the pay in subhead 13, there is subhead 1(a) and subhead 1(b). Subhead 1(a) is where the wage increases come from and subhead 1(b) is the other one.

**HON CHIEF MINISTER:**

His hearing is not as fine as Mr Licudi's then obviously, who hears the whispering. Now, the explanation I am getting is that when there are departmental savings under other heads, those get used before and they have to resort to this device because we cannot vire from other charges to emoluments. It does not necessarily come from the supplementary funding vote.

**HON J J BOSSANO:**

The ones that are vired are in a different layout, on a different piece of paper and they chose where it was voted within the subheads and which subhead it is moved from and to. I am talking No. 1 which says Head 13 Supplementary Provision subhead 1(b) supplementary funding, dated 27<sup>th</sup> May, Warrant No. 1

**HON CHIEF MINISTER:**

What we are now being told is that some of the pay settlements are funded from the supplementary funding subhead rather than the pay settlements subhead of Head 15(1).

**HON J J BOSSANO:**

Presumably it ought to be if the amount that is voted by the House is exhausted, which of course they can do. But if we are going to have a head of expenditure that says pay settlements and the Government say they are going to need £2 million, the House votes £2 million and then they find that they need more than £2 million, then I can understand it. When they have exhausted the £2 million then they go to the other one. But if it does not really matter whether it says pay settlement or not, then why bother to have a 15(1)(a) and a 15(1)(b)?

**HON CHIEF MINISTER:**

It sounds logical to me to exhaust the dedicated subhead before raiding the other one. I am not sure that there is any legal impediment to doing it but it certainly sounds logical to do it that way. It appears that in addition to needing more money for pay review, that there may also have been an underestimation under the estimated personal emoluments. In other words, estimated vacancies and all of that. The Leader of the Opposition knows that the Treasury takes the view sometimes about that. Not everything that has come out of this subhead 1(b) supplementary funding may relate to pay settlements. Some of it may also relate to straightforward underestimation of the original estimated amount. But what we cannot give the Leader of the Opposition, but we can do it if he is interested in it, is a breakdown of how much of it is for underestimated basic expenditure and how much is for pay review related higher expenditure.

**HON J J BOSSANO:**

I am raising it because it seems a high figure for an underestimation. Therefore, if it had been much smaller I probably would not have raised the question at all.

**HON CHIEF MINISTER:**

If it were all underestimation and none of it for pay review we would have had to underestimate by many thousands of teachers.

**HON J J BOSSANO:**

Absolutely and that is what the explanation says.

**HON CHIEF MINISTER:**

Salaries provision underestimated indicates that some of it may also be for pay review. I agree.

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

Subhead 2 – Industrial Wages

**HON J J BOSSANO:**

I think when the hon Member explained that there might have been an element here where there were two pay reviews, could that also be true of the industrial workers where the figure that had to be added was £79,400 in basic wages? If we look at the estimates, it is unusual in that we start off with £1.522 million, the provision last year was £28,000 more, the outturn is £1.726 million and now we are being asked to vote less money than was actually spent last year. Now, if it is that it was a catching up exercise of two pay reviews I can understand it, but I was not aware that this happened with industrials.

**HON CHIEF MINISTER:**

I would guess that it has to be that, it is just being checked behind me, because otherwise it suggests that there has been quite a lot of increase in employment levels at the industrial level, which is not indicated by the complement.

**HON J J BOSSANO:**

The change comes this year not last year.

**HON CHIEF MINISTER:**

It is 153 industrials, both this year and last and I do not know what it said. No, so there would not be unless of course the increase came last year. If the increase came in 2006, no it would not have. So I would guess it has to be the same reason. Were there two pay reviews for the industrial staff as well? Yes. I am being told that there were two pay reviews for the industrials.

**HON S E LINARES:**

It is probably because a percentage was given and it was split into two, I think. The 1<sup>st</sup> April and then September, I think.

Subhead 2 – was agreed to and stood part of the Bill.

Subhead 3 – Other Charges

**HON J J BOSSANO:**

In subhead 3(1)(a), I take it we are not voting in any of the departments for higher electricity and water costs? In fact, it was £185,000 last year and it is £170,000 now. Unless this is

also to see how much they can be tested in being economical with water and electricity now that it is going up.

**HON CHIEF MINISTER:**

Which they should.

**HON J J BOSSANO:**

Everybody should but then he will have a problem because he will not get the money that is expected.

**HON CHIEF MINISTER:**

But since electricity is generated at a loss, I think we are better off without incurring the cost.

Subhead 3 – was 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 CULTURE, HERITAGE, SPORT AND LEISURE

HEAD 2-A CULTURE AND HERITAGE

Subhead 1 – Personal Emoluments

**HON G H LICUDI:**

Under subhead 1(b)(iv), there is a discretionary award, can we know what sort of thing this covers and we see a reduction there in what is forecast to be spent this year? How do we account for that?

**HON CHIEF MINISTER:**

Yes, I think that this is the Minister's fund for overtime to cover events of a cultural nature, and possibly a heritage nature, that are organised by his staff – National Day, street events and things which require him to pay overtime to his staff. It is discretionary in that sense as opposed to the other definitions of overtime which are part of the basic pay structure, in effect.

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

Subhead 2 – was agreed to and stood part of the Bill.

Subhead 3 – Other Charges

**HON J J BOSSANO:**

In subhead 3(2)(b), we have cultural events including National Day £550,000. Presumably, that.....

**HON CHIEF MINISTER:**

That should properly be National Week.

**HON J J BOSSANO:**

It says National Day there.

**HON CHIEF MINISTER:**

It does, I am just noticing that it says National Day, but I think that includes all the expenditure relating to National Day which has extended itself into a National Week. So it is sort of

National Day related but it takes place over in effect..... I think it even includes fair expenses, fairground, La Feria.

**HON J J BOSSANO:**

If the National Day expenditure was previously shown separately under Head 8A, is it that now that it is in a global figure there is more flexibility in what gets spent in respect of one or the other?

**HON CHIEF MINISTER:**

I hope not.

**HON J J BOSSANO:**

This is the opposite of the tightening.

**HON CHIEF MINISTER:**

It is not intended for that purpose but we are voting, in effect, to include xxxx and I think we should therefore not call it National Day. We should call it National Day/Week.

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

HEAD 2 – B SPORT AND LEISURE

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

HEAD 3 HOUSING

HEAD 3 – A HOUSING – ADMINISTRATION

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



### HEAD 3 – B HOUSING – BUILDINGS AND WORKS

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

### HEAD 4 ENVIRONMENT AND TOURISM

#### HEAD 4 – A ENVIRONMENT

##### Subhead 1 – Personal Emoluments

#### **HON G H LICUDI:**

There is the very first item, it shows a reduction in salaries. It does not show that it has been moved somewhere else.

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

This is two Civil Servants who were formerly under the Environment Department, the Chief Technical Officer and his secretary, who have now moved into No. 6 and are now under No. 6. It also reflects in a number of other subheads, their pay has moved under another Head. The pay, the bodies and under the allowances there is an adjustment as well. If the hon Member looks at the establishment on page 30, he will see the drop of two bodies.

#### **HON G H LICUDI:**

We are seeing two Heads only which account for £116,000 less.

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

One of them, the Chief Technical Officer, is the second most highly paid Civil Servant, the Chief Technical Officer.

#### **HON G H LICUDI:**

If he was under the auspices of the Environment Department previously and he does environmental work, why does he now come under No. 6 Convent Place? Why the policy change?

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

It was not really a policy change, it is just that we delayed moving him out. He used to be the head of the Technical Services Department, which was in that Ministry. The Government created a head of Finance, Financial Secretary sitting behind me and we created a new post, Chief Technical Officer, which is also graded above all the other Senior Officers, with the Financial Secretary, to head the whole Government's technical responsibility, the Chief Technical Officer. In other words, he is not just the Environment Ministry's Chief Technical Officer, he is the whole Government's, responsible for all technical things in the Government, electricity generation, sewers, everything in the Government. He is the head of the tube with the word "technical" written on it as opposed to "financial", as opposed to "administrative" which is the Chief Secretary. So he does not belong in any particular department, he belongs in the centre from where he can deliver and he operates at a very strategic level. He does not operate from day to day. So, for example, he is in charge of the utilities infrastructure review, the air terminal project. He operates at a level which is way above the day to day operations of any department. It is a new post. It was created but we did not take him out of the Department of the Environment until the Department of the Environment could stand without him. That has now happened, it has got its own senior people now and so it was then safe to take him out and bring him into the centre.

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

Subheads 2 and 3 – were agreed to and stood part of the Bill.

#### HEAD 4 – B TECHNICAL SERVICES

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

#### HEAD 4 – C TOURISM

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

#### HEAD 5 FAMILY, YOUTH AND COMMUNITY AFFAIRS

##### HEAD 5 – A FAMILY AND COMMUNITY AFFAIRS

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

##### HEAD 5 – B YOUTH

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

#### HEAD 6 ENTERPRISE, DEVELOPMENT, TECHNOLOGY AND TRANSPORT

##### HEAD 6 – A ENTERPRISE

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

##### HEAD 6 – B TRANSPORT – PORT AND SHIPPING

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

##### HEAD 6 – C TRANSPORT – AIRPORT

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

##### Subhead 3 – Other charges

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

In subhead 3(1)(a), on the contribution to the air terminal running expenses, I think I have raised before this question on the basis that it was 50 per cent of the combined use of the airport by the military and the civilian and then 100 per cent of the additional use made exclusively for civilian use, after hours. How does this figure, I note there is no change from one year to the next, but is this related to the total cost of running the airport? The cost of running the place is more than twice this, I take it.

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

Not in recurrent expenditure.

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

I thought it was.

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

No.

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

I stand corrected. I thought the MOD always talked about the budget for running the airport being much higher than.....

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

Recurrent expenditure. In part of their annual budget they may have capital works, they may have things, but in terms of salaries and ordinary day to day maintenance, this includes all

sorts of things. This includes half the pay of the fire brigade, everything.

If I can just go back a moment. We are talking about, this is not the whole cost of running the airport. This is the contribution to the MOD. Yes, it is half the total cost. Of course, in addition there are the contracted out services and terminal management, there are costs of running the terminal in addition.

**HON J J BOSSANO:**

This is half and the other half is paid for.....

**HON CHIEF MINISTER:**

Absolutely.

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

#### HEAD 6 – D TRANSPORT – VEHICLE, TRAFFIC AND PUBLIC TRANSPORT

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

#### HEAD 6 – E POSTAL SERVICES

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

Subhead 2 – Industrial Wages

**HON G H LICUDI:**

Under industrial wages in subhead 2(a), we see that in 2006/2007 £47,000 were spent, this has come down for this year and will come down again in terms of wages. This seems to represent a reduction in manning levels, is there a reason for

a reduction in manning levels? At page 46 the industrial staff was for total services four and it has now been reduced to three. Why is one post being done away with?

**HON CHIEF MINISTER:**

The three is two full-timers and one part-timer out of a total previously of four full-timers.

**HON G H LICUDI:**

So we are going from four full-timers to only two full-timers and one part-timer, so there is a reduction in manning levels. What is the reason for that reduction in manning levels?

**HON CHIEF MINISTER:**

Apparently the work is cleaners and things. We welcome this frugality in public expenditure. Do they welcome the xxxxxx or lament it?

**HON J J HOLLIDAY:**

If one actually refers down to subhead 3(1)(c), it can be seen that the cost of office cleaning further down below has actually been increased. So some of the industrial wages have been substituted by contracted work in cleaning.

Subhead 2 – was agreed to and stood part of the Bill.

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

#### HEAD 6 – F BROADCASTING

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

## HEAD 6 – G UTILITIES

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

### Subhead 3 – Other Charges

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

In subhead 3(3), water, the payment to AquaGib was approved at £850,000 and the outturn is £828,000 and the amount that we are approving for this year is £890,000. The Chief Minister has explained that the increase in water tariffs will show a reduction in the financial year 2009/2010 because we get the stuff in arrears. In fact, I do not see if what we have got here is the increase in water tariffs that would materialise without an increase, it does not seem to me to be of the order that would be justified by 15 per cent.

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

I think it depends on the demand and the consumption.

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

I accept that but the point I am making is this. If a year ago we voted £850,000 and this year we are voting £890,000, then independent of demand which may explain why the outturn is lower, at the point of estimating if we are estimating for a similar amount of demand to what was.....

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

We are not. In effect the increase is xxxxxxxxx is estimating that they will produce an increase outturn.

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

So that indicates a higher output then as well as the increase. I am afraid then that my argument, which was not questioning it on the basis that it was too high but questioning it, if that is the level of increase and that includes increased consumption, then the 15 per cent surely is going to result, not in us going back to the £850,000 but in a figure that is going to be much lower. In the 15 per cent that the Government have referred to in the water charges is supposed to be what they need because of the higher oil prices and so on.

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

We were estimating that it will come down to about £200,000 with the 15 per cent increase.

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

So it is not just a question of the costs that have been recently incurred, it is more than that the 15 per cent.

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

There is nothing in that estimate which reflects the increase in tariffs.

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

No, there is nothing in the estimates and what I am saying is, if with the increase in tariff the cost to the Government's budget will come down, and will come down to something like £200,000?

**HON CHIEF MINISTER:**

To, no, by. So by £690,000.

**HON J J BOSSANO:**

That was my question.

**HON CHIEF MINISTER:**

To eliminate the subsidy altogether, which is what we say it is, we require slightly higher than 15 per cent tariff increases. Add to that with Mr Chairman's leave, the company has an outstanding claim for a recalculation of the compensation and that if that claim is sustained, it might come back up again. In other words, that reduction in the subsidy down to £200,000 may not be a permanent saving. In time it may do nothing more than eliminate what would have been an increase. But we are not there yet. As we speak today, it has the effect of reducing the subsidy.

**HON J J BOSSANO:**

But the formula has been the same throughout, has it not? The formula used for the calculation.

**HON CHIEF MINISTER:**

The formula is the same but they believe that the formula does not adequately compensate them for their costs. The calculation has always been the same but they want it  
xxxxxxxxxx

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

## HEAD 7 HEALTH AND CIVIL PROTECTION

### HEAD 7 – A HEALTH

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

### HEAD 7 – B CIVIL CONTINGENCIES

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

### HEAD 7 – C FIRE SERVICE

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

## HEAD 8 ADMINISTRATION

### HEAD 8 – A NO 6 CONVENT PLACE

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

### HEAD 8 – B HUMAN RESOURCES

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

## HEAD 9 FINANCE

### HEAD 9 – A FINANCE MINISTRY

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

### HEAD 9 – B TREASURY

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

### HEAD 9 – C CUSTOMS

Subheads 1 to 3 – 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.

#### HEAD 9 – E FINANCE CENTRE

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

#### HEAD 10 EMPLOYMENT, LABOUR AND INDUSTRIAL RELATIONS

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

#### HEAD 11 JUSTICE

##### HEAD 11 – A JUSTICE MINISTRY

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

##### HEAD 11 – B COURTS – SUPREME COURT

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

##### HEAD 11 – C COURTS – MAGISTRATES' AND CORONER'S COURT

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

##### HEAD 11 – D ATTORNEY GENERAL'S CHAMBERS

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

#### **HON G H LICUDI:**

Mr Chairman, can I just go back to courts? I am not sure whether this is something that is here. In the costs associated with the tribunal that is going on, where is that to be found?

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

That will be funded from a central vote in No. 6. I think we made a token provision for it, let me just identify for the hon Member. Yes, I am sorry, it is here under the Justice Ministry 11 - A, Subhead 2(d) tribunal under section 64 of the Constitution. I beg your pardon, we were toying with the idea of whether to put it in centrally or in the Justice Ministry, and it has gone in the Justice Ministry.

#### **HON G H LICUDI:**

I see that there is token amount. Clearly the Government know that it is going to cost a significant amount. Where is that money going to come from? From which head?

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

Well, we might decide to impose a levy on the legal profession. Yes, and it is going to be a very substantial sum of money. There is no getting away from that.

##### HEAD 11 – E PRISON

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

##### HEAD 11 – F POLICING

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

The Government is engaged in talks with the MOD about the future of the GSP, I understand.

**HON CHIEF MINISTER:**

Not yet, no.

**HON J J BOSSANO:**

Is that something that is likely to happen in the current financial year and would change the picture that we see here?

**HON CHIEF MINISTER:**

I do not think so.

**HON J J BOSSANO:**

Assuming something happens obviously.

**HON CHIEF MINISTER:**

If something were to happen there would be an increase here but there would be a corresponding revenue increase in the revenue pages.

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

#### HEAD 12 IMMIGRATION AND CIVIL STATUS

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

#### HEAD 13 PARLIAMENT

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

#### HEAD 14 GIBRALTAR AUDIT OFFICE

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

#### HEAD 15 SUPPLEMENTARY PROVISION

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

Clause 2 – was agreed to and stood part of the Bill.

#### Clause 3

#### HEAD 16 CONSOLIDATED FUND CONTRIBUTIONS

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

**HON CHIEF MINISTER:**

I move that we delete the reference to £19,000,000 and substitute it by a reference to £17.5 million, to make the Bill consistent with the Schedules in the Budget book, for reasons that I think we have already rehearsed and I can explain it again but the hon Members I think are aware of it.

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

#### Clause 4

#### IMPROVEMENT AND DEVELOPMENT FUND

#### HEAD 101 – DEPARTMENTAL

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

#### Subhead 5 - Environment

**HON J J BOSSANO:**

In subhead 5(e) street cleansing, I think last year we were told when I asked a question about this that the figure of £1,000 there was because the Government had not yet decided whether the equipment was going to be bought by the Government and provided to the contractor, or included as part of the contract price. Is it that it is still...?

**HON CHIEF MINISTER:**

The Leader of the Opposition is absolutely right to point that out. That decision has been made, it has been bank rolled by the company and the finance charges reflected in the contract fee, which is reflected in the Consolidated Fund. So this really should be a disappearing item, it will not be used, it should have been removed.

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

Subheads 6 to 12 – were agreed to and stood part of the Bill.

HEAD 102 – CENTRAL PUBLIC ADMINISTRATION AND ESSENTIAL SERVICES

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

HEAD 103 – PROJECTS

Subhead 1 – Environment

**HON J J BOSSANO:**

In subhead 1(d), on the incinerator and sewage treatment plant we have got £200,000 for design and planning, I was under the impression that the design and planning stage had already been gone through and that now we were in a situation, I mean, to

start on the actual project. I think that is the impression that we gained from the Chief Minister. We have been hearing about plans and studies of the incinerator for at least four or five years now. So we are going to spend £200,000 on what?

**HON CHIEF MINISTER:**

Well, most of the activity to date has been on feasibility, on choice of technology and things of that sort. But of course, now the plant has got to be designed so the contract documentation has got to be brought up to a stage where it can be handed to a contractor and say build that. All that costs this and that is the reason why there is nothing in the balance to complete column, because the project being described here is not the building of the plant, it is simply the design of the plant and the design of the plant costs around £200,000 and there is nothing to complete because that is the whole of the design project. Architects fee, technical engineering fees for the design of the plant and equipment and all that sort of thing. We have not got to that stage.

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

Subheads 2 to 5 – were agreed to and stood part of the Bill.

Subhead 6 – Other Projects

**HON J J BOSSANO:**

On the other projects, in subhead 6(c) the assessment of the services infrastructure needs, is this that it has been on-going and all the money that has been spent before has been in that study? We have got £150,000 this year, the line shows £420,000 spent last year, £138,000 the year before that.



**HON CHIEF MINISTER:**

There we are very advanced with the design phase and that is what that expenditure has been on. As I think I told him, we referred to this project.....

**HON J J BOSSANO:**

He made a reference to it but I was not very clear what the relationship was between what he referred in the opening and this.

**HON CHIEF MINISTER:**

This is the project to lay new sewers and to lay new water distribution and this is the contract itself which will go out to tender later this year. But this is the design phase. In other words, that is why it is called the assessment of services infrastructure needs.

**HON J J BOSSANO:**

So what is assessed is what will go to tender?

**HON CHIEF MINISTER:**

Yes, for execution, for building but yes.

**HON J J BOSSANO:**

In subhead 6(f) relocation of rubble tip, is it that we are reallocating the tip that is there or is it that we have found a new place on which to tip?

**HON CHIEF MINISTER:**

This is a real token as I said in my Second Reading, and indeed, this is a real problem for us all. The rubble tip at the East Side, obviously, we are about to sign up on the deal and do the under lease. We have been using a site by the old NATO distillers on the East Side beyond Both Worlds. That is more or less coming up to its capacity now and, in any event, cannot carry on being used once we start the Dudley Ward Tunnel project. So we are desperately seeking out a new site for builders rubble in Gibraltar. It may actually involve a new reclamation project because there are just no sites elsewhere where we can tip rubble, unless it accumulates as a mountain. On the East Side it was fine because the developer of the East Side needed an amount of rubble to convert into aggregate to do filling that he then needs to do for the reclamation. But it is not desirable just to have mounds of rubble scattered around Gibraltar. There is a group working on this at the moment at a technical level to see where the reclamation should go. We have got rubble, a huge amount of building works going on produces quite a lot of builders rubble, one either exports it which is very expensive or one allows local builders to tip it somewhere free. If we do that, we have got to decide what we are going to do, let them tip and create a mountain which then creates a huge amount of cost to remove later, or well, if we have this problem of having to have a tip, do we use it to create a reclamation, as indeed I am sure was the decision making process that they went through when they decided to start the very profitable East Side reclamation. As he keeps on reminding me. We are really now at that stage again.

Subhead 6 – 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

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

**Part 2**

**HON CHIEF MINISTER:**

As I have given written notice there is an amendment here. One consequential on the amendment that we made to clause 3, conversion of £9 million to £7.5 million, but also this amendment that we discussed earlier on about deleting the reference to Statutory Benefits Fund and replacing it with a reference to Social Insurance Funds.

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

**Part 3**

**HON CHIEF MINISTER:**

It is not on Part 3 but I notice that my letter includes a reference to amending the Explanatory Memorandum. I personally am not in favour of amending the Explanatory Memorandum. First of all it is not necessary, but of course, the Explanatory Memorandum is what people have already read out there. The Bill has been published in the Gazette, we cannot really amend what people have read and is now irrelevant. My own view is that the Explanatory Memorandum should stay in its original form, but I am quite happy to amend it if the hon Members prefer it.

**MR SPEAKER:**

It is not part of the Bill, it is not enacted.

**HON CHIEF MINISTER:**

The Explanatory Memorandum is not part of the Act once the Bill is converted into an Act

**HON J J BOSSANO:**

Once it becomes an Act it disappears?

**HON CHIEF MINISTER:**

Yes.

**HON J J BOSSANO:**

Maybe because people have already read what is there, why not instead of replacing it say “amended as follows”?

**HON CHIEF MINISTER:**

We are not going to republish the Bill anyway.

**MR SPEAKER:**

It is academic really.

Part 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 2008 has been considered in Committee and agreed to, with amendments, and I now move that it be read a third time and passed.

Question put.

Agreed to.

The Bill was read a third time and passed.

### **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 two Government motions.

Question put.

Agreed to.

### **MOTIONS**

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

Before moving the motion I should like to express my appreciation to the Opposition Members for agreeing to accept, or rather for agreeing to abridge the required notice for the hearing of these motions, notice of which was not given until 3<sup>rd</sup> June and, therefore, under Standing Orders is not actually takeable as of today. I am grateful to them for facilitating that.

Mr Speaker, I have the honour to move the following motion standing in my name and which reads as follows:

“This Parliament resolves in accordance with Section 52 of the Social Security (Insurance) Act, that the Minister for Family, Youth and Community Affairs proceed with the making of the Social Security (Insurance) (Amendment of Contributions) Order 2008.”

Hon Members may recall that some time ago, last year, we changed the procedures so that the amendments to all the Acts were done in the Schedule of this one. The Order which under section 52 requires to be approved by Resolution of the House before the Minister can make it, so this is not a question of ex post facto approval of something that the Minister says, he actually cannot make the Order until it has been approved by the House, is attached to the copy of the notice and simply introduces the increases in social insurance contributions that I announced as part of my address in relation to the Budget, including the allocations which I indicated, at least as to 70 per cent going to the GPMS. Obviously, consistently with not assuming the existence of the combined Statutory Benefits Fund, there is still an allocation between those three other existing funds. As I said to the hon Members that these would come into operation on 1<sup>st</sup> July 2008, and hon Members will recall that they provide for a 10 per cent increase in social insurance contribution levels, both for employers and employees and for self-employed persons. Turning over the page, there is the consequential increases for other categories, Gibraltar Regiment and things of that sort. Well, just Gibraltar Regiment who pay at a reduced rate as hon Members know. I commend the motion to the House. The purpose of raising these extra monies is to increase the funding, in part to increase the funding, at least in terms of the allocation of the increase. Part of it increases the funding of the Social Security funds, the other half increases the revenue of the Gibraltar Health Authority for the Group Practice Medical Scheme, to assist in the financing of the increase in costs of health care delivery and, indeed, development. Thus, indirectly relieving the Consolidated Fund,

it has to be said, that would be the other source of funding such costs rises. I commend the motion to the House.

Question proposed.

**HON N F COSTA:**

The Opposition has in the past made clear that it would completely revise the system, and since the Hon the Chief Minister has said, the Order in effect increases the rates under the current system, the Opposition will not be supporting the motion.

Question put.

The House voted.

For the Ayes:

The Hon C G Beltran  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon Mrs Y Del Agua  
The Hon D A Feetham  
The Hon J J Holliday  
The Hon L Montiel  
The Hon J J Netto  
The Hon E J Reyes  
The Hon F J Vinet

For the Noes:

The Hon J J Bossano  
The Hon C A Bruzon  
The Hon N F Costa  
The Hon Dr J J Garcia  
The Hon G H Licudi  
The Hon S E Linares

The motion was accordingly passed.

**HON CHIEF MINISTER:**

Mr Speaker, I have the honour to move the other motion standing in my name and which is consequential on the first, which reads:

“This Parliament resolves in accordance with Section 46 of the Social Security (Open Long-Term Benefits Scheme) Act 1997, that the Minister for Family, Youth and Community Affairs proceed with the making of the Social Security (Open Long-Term Benefits Scheme) (Contributions) (Amendment) Order 2008.”

That Order simply says for the purposes of section 46 of the Act, that the new rates of contributions payable under that Act are the ones that are provided in the Schedule to the other Act, because it is done by reference one to the other. I commend the motion to the House.

Question proposed.

Question put.

The House voted.

For the Ayes:

The Hon C G Beltran  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon Mrs Y Del Agua  
The Hon D A Feetham  
The Hon J J Holliday  
The Hon L Montiel  
The Hon J J Netto  
The Hon E J Reyes  
The Hon F J Vinet

For the Noes:

The Hon J J Bossano

The Hon C A Bruzon  
The Hon N F Costa  
The Hon Dr J J Garcia  
The Hon G H Licudi  
The Hon S E Linares

The motion was accordingly passed.

## **ADJOURNMENT**

### **HON CHIEF MINISTER:**

I have the honour to move that the House do now adjourn to Wednesday 25<sup>th</sup> June 2008 at 10.00 a.m.

Question put.

Agreed to.

The adjournment of the House was taken at 5.50 p.m. on Friday 6<sup>th</sup> June 2008.

## **WEDNESDAY 25<sup>TH</sup> JUNE 2008**

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,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism  
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 Dr J J Garcia  
The Hon G H Licudi  
The Hon C A Bruzon  
The Hon S E Linares

### **ABSENT:**

The Hon F R Picardo  
The Hon N F Costa

### **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 a Government motion.

Question put.

Agreed to.

## **MOTIONS**

### **HON CHIEF MINISTER:**

Mr Speaker, I have the honour to move the motion standing in my name and which reads:

“(i) That Mr Solomon (Momy) Levy be appointed Mayor of Gibraltar from 1<sup>st</sup> day of August 2008 to 31<sup>st</sup> July 2009;

(ii) That Mrs Olga Zammitt be appointed Deputy Mayor of Gibraltar to assist and support the Mayor and to substitute for the Mayor in the discharge of mayoral duties; and

(iii) That the aforesaid Mrs Olga Zammitt be appointed Mayor of Gibraltar from 1<sup>st</sup> day of August 2009 to 31<sup>st</sup> July 2010.”

As all hon Members of the House will recall, one of the changes that we effected in the new 2007 Constitution was that the Mayor no longer had to be a Member of this House, as had been the case in the past. That constitutional provision had historically during certain eras of our history been stretched, in my view, in its interpretation to mean that one only needed to be a Member of the House to be elected Mayor, and thereafter one

could carry on being Mayor even though one ceased to be a Member of the House, and there were some very good Mayors of Gibraltar who retained their Mayorship for many years after ceasing to be Members of the House. That is a matter of interpretation and, I suppose, it could and was argued both ways. The implications of not having the constitutional change that we have had would be that the Mayor would continue to have to be a Member of this House, and in the current Government's view, it would not have been our policy to interpret the Constitution in the same way. Meaning that one only needs to be a Member when elected. Whilst, therefore, the Mayor had to be a Member of the House, no Government of Gibraltar that I can think of right now has had the courage, if that is the right word, or perhaps the confidence perhaps might be another word, one or other or perhaps both, to appoint a member of the Opposition to be the Mayor. Therefore, it inevitably meant that the Mayor would be either a Minister or, indeed, Mr Speaker, and both have been Mayors in the past, both from the GSLP when it was in Government, GSD and also some Mayors have been Speaker too. I think the virtue of having secured the constitutional change was so that the Mayor would not have to be a Member of this House, and although the office of Mayor has never actually been politicised in terms of the way the functions have been carried out, I think that the civic representational, the non political, non governmental civic representational role ceremonial that the Mayor performs is (a) something which ultimately will benefit from being as far away from the political process and, therefore, of politicians as possible; and (b) I think it is something that we should as a small community draw from wider and deeper in our community to discharge the functions of. That was the Government's thinking in seeking the constitutional change and we now have the opportunity to put it into practice. I suppose the element of novelty in the Government's thinking beyond that is this idea that Mayors should serve for a fixed and limited period of time, a year, this is not unusual in the United Kingdom, where in many Boroughs and places like that the mayorship rotates on a yearly basis. That will not only give the greatest number of citizens the opportunity to discharge this honourific and indeed honourable

representational function, but indeed, will relieve them of having to do, for too long a period of time, a service which is actually quite onerous. I have never done the mayorship before but those of my colleagues that have, and I have observed other Mayors, it does take quite a lot of one's time, there are many more social functions and hosting functions and attendance functions than I think most people would give the Mayor credit for. So it is not an un-onerous responsibility, it requires the giving of quite a lot of the incumbent's time, very often at inconvenient times of the day, in the evening, during the weekends and we believe that if it is going to be done, in effect by unpaid people on an honourific basis, that it should be something that is done intensely but for a short period of time. To that end, we have started this idea of limiting the appointments for a year. Now, in order that there should be an element of continuity built in to that short period principle, and also in order that this sort of volunteer, if we can call them that, given that they are not paid and once it has been done by somebody in the House I suppose they could argue that they are getting a public salary, take it on the chin as part of the job for that, not only for that reason but also to help the Mayor discharge some of these responsibilities which may coincide with a time of the year, time of the week or a particular day, or a time of the day when a family commitment prevents the Mayor from being in attendance. That is the idea of the Deputy Mayor, to not only provide continuity. How? Because the Deputy Mayor takes over as Mayor the following year. So that there is a pipeline where there is a Mayor and a Deputy Mayor, the Deputy Mayor assists the Mayor in year one and becomes, in this case, herself, the Mayor in year two. So in year two we appoint a new Deputy Mayor et cetera. Now, the office of Deputy Mayor, of course, is not provided for in the Constitution. The Constitution speaks of there being a Mayor, it does not speak of there being a Deputy Mayor. The advice that we have considered is that the fact that a Constitution does not provide for a Deputy Mayor is no impediment for there being a person, called the Deputy Mayor, and that is why the second paragraph of the motion says that the Deputy Mayor's function is to assist and support the Mayor. So there is no pretence in the motion that there will be

any form of statutory office of Deputy Mayor although there could be, because we could create the office of Deputy Mayor by statute if we wanted to. We have not considered that it is actually necessary to do so. The criteria in the Government's view, although of course the choice of Mayor in a Parliamentary sense is a matter for Parliament, but obviously because of the Government's majority it is usually a Government proposal, is that our profile of the candidate, whilst it is open to all and any member of the community, is that it should be somebody who is not known to be actively involved or too vociferous in any aspect of political life in Gibraltar, that they should have had in the past some more than average degree of profile in any aspect of life. It could be in their work life, their social life, in the world of charity or simply by virtue of some other activity, to have acquired a degree of profile and community prominence, rather than sort of political prominence within the community. On that basis, the motion proposes that the first Mayor, that of course will be the only one who in theory will not have served as Deputy Mayor first, should be Solomon, commonly known as Momy Levy, to be assisted this year and followed next year by Mrs Olga Zammit. I do not think I need to introduce either of these two candidates to the House, I think everybody in this House and in Gibraltar knows them. Both of them have been prominent in various walks of life in Gibraltar, are well known citizens and we believe citizens that are respected by the community at large, regardless separately from and perhaps even despite what might be their particular political views, whatever they might be. So I commend the motion to the House.

Question proposed.

**HON J J BOSSANO:**

We are voting in favour of this motion, although of course, it is merely a question of rubber stamping something that has already been announced. Everybody is congratulating the guy and everybody assumes that it has already happened. So, in

fact, what the Constitution says about the House and the Parliament picking somebody, this is a little bit like some of the items we had in the Budget where the result of what we were going to decide was already printed before we had even discussed it. But this is supposed to be happening of course on 1<sup>st</sup> August. It seems to have happened already. I think he has already been interviewed as Mayor. Obviously, we are supporting it on the basis that we have got nothing against either of the two candidates which would want us to say they are not the people we think should be the Mayor or the Deputy Mayor. Not because that is the system that we would want to have. That is the Government policy, the Government decide that they want to have somebody for a year and a Deputy to take over, and that the role is purely ceremonial. Let me remind the House that, in fact, when Mr Speaker's predecessor, Mr Justice Alcantara was Speaker, he was appointed Mayor and we, in fact, said our preference was that there should be more of a political element in the role of Mayor, which was not the policy of the Government but it is ours. Therefore I am just putting that down on the record because we would approach it in a different light. Finally, in terms of the remark by the Chief Minister that nobody might ever have had the courage or the inclination to have a Member of the other side as Mayor, let me tell him that the reason why the stretching of the interpretation was non controversial, was because we were in Government and we stretched it for the benefit of the Opposition. So we actually supported Mr Abraham Serfaty because he was an excellent choice of Mayor, he had been a very popular man with everybody and therefore we thought there was no point in changing something that was popular and working well, and with no particular reason for wanting to replace him just because he happened to be a former Minister of the other political party that was then in Opposition. So the answer is there is no reason why it should not happen. But clearly, the new system is that we are not limited to Members of the House and, therefore, it is right that we should put it into effect. We will support the motion.

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

Just to thank the Opposition Members for their support of the Government motion. Of course, the motion has to be published and therefore it is inevitable that the names of the persons involved will enter into the public domain before the House has had the opportunity to vote on it. But that is true of everything that the House votes on, whether it is legislation or whether it is Budgets, everything that the House eventually votes on and is the House's decision, nevertheless is in the public domain before the House has done it. That should not pre-empt the House's decision. If the hon Members had a different view of this motion and had the Parliamentary strength to achieve it, no number of premature interviews or anything else could have prevented the will of the House. Well, we have a different view then about the nature of the office of Mayor. We believe that it should not be political, we think that the people of Gibraltar welcome and want to have at least one representational institution which is above and outside the political process, and that the Mayor is that institution. Although the hon Member's view is of course perfectly defensible, we believe it is not the preferable one, we believe that the preferable view is that the Mayor should be as far away from the political process as possible. Of course, the Constitution gives the office of Mayor absolutely no political or executive powers or functions and mayors normally only have political or executive powers or functions in countries whose political system is organised into municipalities of some sort of another. So whilst we are happy for Mayors with executive power to write letters, even premature letters, to congratulate our Mayor, that is not to be confused with the fact that our Mayor does not have political powers and executive functions. It is actually very important to us that we should not give other people, well we think it is quite important to us, that we should not add any degree, however small, of furniture that allows other people to point to our system and suggest that it looks anything like the municipality that they are always accusing us of merely being. So that is the Government's view. I am grateful to the Opposition Members for their support of the motion, despite the fact that they might



have had a different system of mayoral regime, if I could call it that. We look forward to seeing how this new system functions. I am obliged to the House.

Question put.

The House voted.

The motion was passed unanimously.

**MR SPEAKER:**

May I be the first to congratulate Momy Levy and Olga Zammit following their appointment by this House as Mayor and Deputy Mayor respectively, and in particular for being the first non Parliamentarians to hold those offices.

**BILLS**

**FIRST AND SECOND READINGS**

**THE IMMIGRATION CONTROL (AMENDMENT) ACT 2008**

A Bill for an Act to transpose into the law of Gibraltar Directive 2004/38 of the European Parliament and of the Council of 29<sup>th</sup> April 2004, on the right of citizens of the European Union and their family members to move and reside freely within the territory of the Member States, amending Regulation EEC No. 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC and to otherwise amend and change the name of the Immigration Control Act.

**CERTIFICATION FOR BILLS REQUIRING URGENT CONSIDERATION**

**HON CHIEF MINISTER:**

Since and before I go through the formalities of the process, since the Constitution provides that this House cannot proceed on a Bill, unless it shall have been published six weeks at least six weeks before the date upon which the House considers it, unless I as Chief Minister certify that the matter is too urgent to permit for a six week delay, then before proceeding on it and as a matter of courtesy to this House and also by way of placing it on Hansard, I should just like to inform the House that I have indeed certified, pursuant to section 35(3) of the Gibraltar Constitution Order 2006, that consideration of the Immigration and Asylum Bill 2008, which would be published on and indeed was published on 19<sup>th</sup> June 2008, is too urgent to permit a delay of six weeks before it can be proceeded upon, on the grounds that this Bill will implement and enable the implementation of two EU measures in relation to which infraction proceedings are now at an advanced stage before the European Court of Justice. Mr Speaker, this is one of the measures that we are being infringed on, and unfortunately, it has reached the final stages of the infraction proceedings. So this is not a pre 299 or 226 letter, it is actually now in the court. There is not, I believe, in this legislation very much that this House, there may be much that the House might wish to debate but there is not very much that the House could change. I will point out in a moment the one element of it that is of the Government's very particular choosing, because it just transposes a Directive and, therefore, we can debate it but it is mandatory upon us to do it. Therefore, I thought that the House would share the Government's view that in those circumstances, and given that it is not a domestically controversial piece of legislation, it is not worth placing the United Kingdom on behalf of Gibraltar in the dock for a piece of legislation that in Parliamentary sense is not something that we could be able to fight about or quarrel about very much. So that is the nature of the reasoning why I thought it appropriate to issue the certificate in this case. I have the

honour to move that a Bill for an Act to do all of the things that the Clerk has just read out to the House, 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, given the fact that I have exercised my constitutional ability to abridge the period of publication from six weeks to seven days, seven days of course being the previous minimum time limit under the old Constitution, but nevertheless I intend, if the House will indulge me, to give the House a lengthier perhaps than usual explanation of what this Bill is about. The Bill has three purposes. The main purpose of the Bill is to transpose Directive 2004/38/EC of the European Parliament and of the Council of 29<sup>th</sup> April 2004, on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. That amends Regulation EEC No. 1612/68 and repeals all the other Directives that have been read out in the procedural parts of the introduction of this Bill, and which I will not read out again. This Directive also consolidates a number of previous Directives, plus case law of the European Court of Justice relating to free movement of persons. The Bill also firstly makes provision for the Government to make regulations in respect of asylum, refugees and other persons seeking international protection. In other words, there are other Directives that need to be transposed, which we could use the EEC Act to do but would rather use an Act with primary regulation making powers and that is what this does. Secondly, inserts part headings into the Act in order to clarify it and make it easier to use. The central provisions of the Bill are set out in Schedule 1. This Schedule transposes the Directive and contains the new provisions, which are new sections 55A to 55X of what would be the amended Immigration Act, relating to the entry and residence of EEA and

Swiss nationals and their family members. Hon Members will know that EEA nationals includes European Union Member States and EEA States that are not EEA Member States plus Swiss nationals and their families. For the purposes of clarity I will refer to those new provisions in this address as new sections rather than as clauses. In other words, I will refer to it as they will be sectioned in the new Bill so that the hon Members can follow it more closely with the Bill in front of them. The Immigration Control Act, as it currently stands in our statute book, already contains provisions relating to the rights of EEA and Swiss nationals and their family members to enter and reside in Gibraltar, because some of the Directives that this Bill consolidates and/or amends, have already been transposed by Gibraltar and are already in our statute book. Most of the new sections of this Bill do not substantively change the existing law, although the wording and structure of the law is changed. However, some of the new sections do introduce substantive changes to our existing law and I will take the House through those. They are as follows. Decisions in relation to the rights of EEA and Swiss nationals and their family members to enter and reside in Gibraltar will under the new provisions be taken by the Civil Status and Registration Office and not by the Principal Immigration Officer as at present. That, of course, is not a requirement of the Directive. The Government is working on a very wide consolidation of Gibraltar's whole immigration legislation, one of the effects of which will be to transfer non enforcement functions of immigration policy administration from the police, who will keep the enforcement functions, but the policy administration functions will be transferred to the Civil Status and Registration Office, currently headed by its Chief Executive, Mr George Flower. Therefore, this Bill introduces that new policy for the first time, not least because much of the administration of this Bill involves issuing certificates, issuing cards, issuing documents, which is much more an administrative function than a police function. Accordingly, new section 55A defines the Authority as the Head of the Civil Status and Registration Office and the persons to whom he delegates the powers, namely his own members of staff. Further, new section 55B, introduces a clear provision for the purpose of calculating

periods of continuous residence in Gibraltar, which are relevant for example to deciding whether a person qualifies for permanent residence. Thirdly, new section 55C(2) specifically defines the European law concept of a job seeker. Such persons were previously covered by Gibraltar law as a job seeker is a worker under European law, but no specific mention was made of them. Fourthly, family members of EEA nationals are defined in new section 55F and do not differ from the existing provisions. However, new section 55G introduces the concept of an extended family member. An extended family member is a person who is (1) a relative of an EEA national or his spouse, and who is dependent upon or residing with the EEA national before moving to Gibraltar; or (2) is a relative of an EEA national or his spouse and on serious health grounds requires the care of the EEA national or his spouse; or (3) is a partner of an EEA national. Extended family members who are not nationals of the EEA will not have a right to enter and reside in Gibraltar, but will have the right to have their applications for a visa to enter, called an EEA family permit, and to reside considered by the Authority. So they have got no right except the right to have their application considered. New section 55H introduces the concept of a family member who has retained the right of residence. Such persons will generally be entitled to stay to reside in Gibraltar. Persons may fall into this category if (1) they are the family member of an EEA national who died after working in Gibraltar for at least a year; (2) they are the divorced spouse of an EEA national; (3) they are the child of an EEA national who has died or left Gibraltar and are studying in Gibraltar; or (4) if they have custody of such a child. The persons listed in points (3) and (4) are already covered by the existing Immigration Control Act. In other words, these are people who originally got into Gibraltar under these provisions on the sort of back of somebody else and who nevertheless are now given the right to retain that right, even though that somebody else may have for one reason or another lost their own one. New section 55I deals with the entry of non EEA family members of a Gibraltarian who has lived in another EEA State before returning to Gibraltar. It gives statutory effect to the existing legal position in Gibraltar as a result of the judgement in

the case of the Queen against Immigration Appeal Tribunal and Surinder Singh, ex parte the Secretary of State for the Home Department. Subsections (4) and (5) of new section 55J require the Authority to facilitate the entry of persons who do not hold the documents normally required for entry, but can prove by other means that they are entitled to enter into Gibraltar. New section 55L and 55M deal with the entitlement of EEA nationals and their family members to reside in Gibraltar. There is a slight change to the existing law in that an EEA national or a family member, who holds the relevant documentation, are entitled to reside in Gibraltar for up to three months, but only certain categories will be entitled to reside for longer than three months. In practice, despite the difference in wording, there is likely to be little change since persons residing in Gibraltar for under three months are likely to have a right to reside in Gibraltar under our existing law as service providers or recipients, or as for example, workers, self-employed or self-sufficient persons. New section 55N introduces the new concept of permanent residence. The general rule is that EEA nationals and their family members who have resided in Gibraltar for a continuous period of five years, will be entitled to reside permanently in Gibraltar. Certain persons will be entitled to reside permanently in Gibraltar before the end of five years. Again, whilst the concept is new, existing Gibraltar law, for example, section 50B of the Immigration Control Act, already provide for indefinite residence for the groups who under the new section are entitled to permanent residence before the end of five years, and other persons will be entitled to reside in Gibraltar for as long as they were exercising their EEA free movement rights. New sections 55O, 55P and 55Q introduce new types of documentation for EEA nationals and their family members. Under existing law, the Principal Immigration Officer is responsible for issuing residence permits to EEA nationals and their family members. Under the new provisions, the Civil Status and Registration Office will issue to EEA nationals something called "registration certificates". To non EEA family members they will issue things called "residence cards". To EEA nationals entitled to reside permanently in Gibraltar, they will issue a document called "document certifying permanent residence". To non EEA family

members entitled to reside permanently in Gibraltar they will issue "permanent residence cards". Under the new provisions it will be obligatory for EEA nationals and their family members to apply to the Authority for the documents after residing in Gibraltar for three months, although they may apply at any time after entry into Gibraltar. In other words, it is not mandatory to apply for this documentation until one has been here for a minimum period of three months. There is also an obligation to inform the Authority in writing of changes of address. New section 55R deals with exclusion and removal from Gibraltar. It largely mirrors existing section 50F and 50I of the Immigration Control Act, but also allows for non EEA national family members to be refused entry if they are not travelling with or joining an EEA national. In addition, the new section provides that persons shall not be required to leave Gibraltar as an automatic result of claiming social benefits, nor unless there is special urgency, before the end of one month from being notified in writing that they are required to leave. New section 55T deals with decisions taken, for example, a decision to refuse entry or to revoke a residence card, on the grounds of public policy, public health or public security. The law is not entirely new as similar provisions already exist in section 50H of the Immigration Control Act, but new section 55T provides greater guidance as to when and how such decisions can be made. New section 55U requires EEA nationals and their family members to be notified in writing of any negative decision taken concerning their entry, residence or residence documents. They shall also be informed that they may appeal to the Supreme Court. Finally, new section 55V deals with appeals to the Supreme Court. Existing section 50J of the Immigration Control Act contains appeals provisions, but there are some differences in the new section, including the appellant is given 28 days instead of the previous 14 days to appeal but must apply for leave to appeal. A decision of the Supreme Court shall be final as to any question of fact. The Supreme Court may dismiss the appeal or remit it to the Authority with directions to reconsider, and in some circumstances, the Authority may apply to the Supreme Court to have an appeal dismissed for want of prosecution. Returning to the clauses of the Bill, clause 2(2) of the Bill

renames the Immigration Control Act as, and I intend to give notice to move an amendment, the Short Title of the Act is anything other than short and rememberable, so I intend to move an amendment to shorten it. Anyway, as the Bill presently stands, somebody has thought it appropriate to call this the "Immigration, Asylum, Refugee and Persons Seeking International Protection Act". I challenge anybody other than the draftsman to ever remember that again, so I will be moving an amendment to drop the last bit and simply to call this the "Immigration Asylum and Refugee Act". The Act does contain enabling powers, of course, to deal with persons seeking international protection, which is a fourth category of person. One can either be an immigrant, an asylum seeker, a refugee or one can be a person seeking international protection on which there is EU legislation as well, but we do not have to reflect every function of the Act in its title, otherwise it becomes an enormous mouthful. So I intend at Committee Stage to move an amendment just to drop the fourth category, so to speak, from the title of the Act and practitioners will just have to remember that it is there. Clause 2(3) of the Bill inserts part headings into the Act. Clause 2(4) of the Bill inserts a number of key definitions and deletes the reference to a residence permit issued to an EEA national from the general definition of residence permit. This allows different provisions to be made in the Act in respect of residence permits issued to EEA nationals and their family members, and residence permits issued to nationals of other States. Clause 2(5) provides which sections of the Act shall not apply to EEA nationals and their family members who are covered by new sections now being introduced, and makes the heading of section 3A consistent with the style of the Act. Clause 2(6) makes minor modifications to ensure that immigration officers may only require EEA nationals and family members to be medically examined, where this is allowed by the Directive. Clause 2(7) is a simple renumbering to refer to the correct appeal provisions and clause 2(8) repeals the current European free movement provisions of the Immigration Control Act. Clause 2(9) inserts a power to make regulations for the purposes of establishing rules of standards concerning asylum, refugees and persons seeking international

protection. Clause 2(10) inserts the contents of Schedule 1 into the Immigration Control Act. This Schedule includes the new European Directive provision requirements. Clause 2(11) introduces a new section 65, which refers to the correct section numbers after amendment of the provisions relating to EEA nationals and their family members. Clause 2(12) clarifies that the offence in section 66(1)(h) refers to a permit, certificate or other authority issued under Part 2 of the Act, in other words, under the Gibraltar Immigration law part and not the EEA part of the Act. Clause 2(13) and 2(14) clarify the rule making powers currently contained in section 67C of the Immigration Control Act, and provides that rules may be made to transpose EU Directives and international agreements which apply to Gibraltar. Clause 2(15) inserts powers for the Chief Justice to make rules of court in relation to appeals and such matters. Clause 2(16) sets out a form which may be used for the purposes of applying for leave to appeal to the Supreme Court under new section 55V. This Bill transposes Gibraltar's obligations under the Directive and deals with the one other aspect that I mentioned at the beginning, about the administration of the Act, concerning the entry into and residence in Gibraltar by EEA nationals and their family members. I commend the Bill to the House.

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

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

Let me start by saying that we agree with the Government that given the advanced stage of potential infraction proceedings against the United Kingdom, that it would be wrong not to take action here to avoid that situation, and that therefore, that is indeed one of the considerations that weigh during the constitutional talks in the United Kingdom, when we discussed it with the United Kingdom Government, that they were keen that this safety mechanism should be there to protect them, quite apart from any other consideration. So, therefore, on that basis

we accept that in those circumstances it is the correct use of the clause in the Constitution, which has been triggered by the Chief Minister to bring this before the six weeks. Having said that, it does not mean that we can do in six days what we might have been able to do in six weeks and we have not been able to do it. Consequently, although in the limited time available I have seen that, indeed, much of what is in the Schedule that brings in the clauses is very close if not identical to what was done in the United Kingdom in April 2006, we cannot support the Bill because we are not 100 per cent satisfied that all the provisions in it as they stand are not things that contain nothing that is domestically controversial. We are not entirely happy that we can be as satisfied that that is indeed the case as the Ministers who have had much longer to go over this than we have. We will not be voting in favour but, of course, we do accept that they are doing the right thing in bringing it and in shortening the notice, because it is indeed a responsibility we have to seek to avoid the United Kingdom having to face infraction proceedings when there is no need to because it is not something that we can say we are not going to implement this Directive. This Directive goes to the very root of what was there in 1968 on the free movement of labour, but we shall have to devote, after the passing of the Bill, the necessary time to analyse this in the context of everything the Directive says, what has happened in other Member States, how the United Kingdom has done it and the rest of the law. Therefore, that is our position at this point in time.

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

I think I need to say two things. First of all, even though I said that the Bill contains nothing that is domestically controversial, let me hasten to add that the constitutional power bestowed on me to truncate the six weeks period is not limited to things that are not domestically controversial. Should there ever be an occasion in which I regard a domestically controversial Bill to be too urgent to wait for the six weeks, I will of course, feel free to exercise the constitutional power. I do not want..... whilst I

agree that the power should be used exceptionally, it is not for the Opposition Members to define what exceptional means. Nor do I think that the Leader of the Opposition was intending to do so. So, it is true that I did not consider that this Bill contains anything, and I do not think that he is saying that it does, he is just saying he has not had enough time to see whether it does or it does not, but I just want to add that of course that is not the definition of the proper use of this constitutional power. Secondly, in a sense I am a little bit disappointed about the Leader of the Opposition's contribution. Of course the period of time that he has had to consider this Bill, which was published over seven days I think today is the eighth, is the period of time that was systematically available for all legislation under the old Constitution, which is not to say that Oppositions never did their job, either when we were in Opposition or indeed whilst they have been in Opposition. It has always been, until the new Constitution, the case that very frequently, in respect of most of the legislation, only the amount of notice that he has had of this Bill was ever given to this House. So that is not, in my view, a reason to have prevented any more than it was a reason in the past. But I agree that in the past the time was too short, which is why the Government proposed in the Constitutional reform proposal, that the period should be extended from seven days to six weeks, because we thought that it was..... people coming to Gibraltar looking at our Parliamentary processes, looking for reasons to think that we were not a grown up Parliament, would have alighted on this seven day rule to say, "look it is pretty peculiar, the Government in effect can complete the legislative process in eight days. They can publish the Bill, which is the first time anybody sees what it says, one can have the First, Second and, if one can persuade the Opposition, the Third Reading, Committee Stage and Third Reading, and I suppose if quick enough can get the Royal Assent as well all in the eight day". We thought that that just was not a sufficiently serene, detained process, so it is the Government's view that the House at large and the Opposition in particular should have, and should always have had even under the old Constitution, more than the seven days. So I entirely sympathise with the views that when a piece of legislation is long and complicated by its subject matter,

seven days is not an adequate period now nor was it ever in the past. Therefore, if in those circumstances Opposition Members want to take the view that they wish to not support, by which I suppose it means abstain and not vote against, I do not know time will tell, he did not actually make clear which of those two courses, ah, they are going to vote against. Well, voting against requires a good reason. If he does not know why he should not support it, presumably he cannot equally know why he should oppose it. Anyway, that is a matter for his logical mind to grapple with. So, we commend the Bill to the House on that basis.

Question put.

The House voted.

For the Ayes:	The Hon C G Beltran
	The Hon Lt-Col E M Britto
	The Hon P R Caruana
	The Hon Mrs Y Del Agua
	The Hon D A Feetham
	The Hon J J Holliday
	The Hon L Montiel
	The Hon J J Netto
	The Hon E J Reyes
	The Hon F J Vinet

For the Noes:	The Hon J J Bossano
	The Hon C A Bruzon
	The Hon Dr J J Garcia
	The Hon G H Licudi
	The Hon S E Linares

The Bill was read a second time.

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

Mr Speaker, I hope that since the Opposition Members are implacably opposed to this piece of legislation they will not mind Committee Stage and Third Reading taking place later today.

Question put.                      Agreed to.

**THE MEDICAL (GIBRALTAR HEALTH AUTHORITY)  
(AMENDMENT) ACT 2008**

**HON MRS Y DEL AGUA:**

I have the honour to move that a Bill for an Act to amend the Medical (Gibraltar Health Authority) Act 1997, be read a first time.

Question put.                      Agreed to.

**SECOND READING**

**HON MRS Y DEL AGUA:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this short Bill makes several amendments to the Medical (Gibraltar Health Authority) Act 1987. Clause 2(2) amends section 3(1) of the Act in order to modernise the wording. It substitutes the Administrative Secretary for the Chief Secretary and makes the Financial Secretary a member of the Gibraltar Health Authority. Clause 2(3)(a) amends section 6(2)(j) of the Act, to substitute Government for Governor. Clause 2(3)(b) amends section 11(1) of the Act to remove the medical officer in charge of the Royal Naval Hospital from the management board of the Gibraltar Health Authority. Clause 2(3)(c) amends section 14(5) of the Act, and requires the Gibraltar Health Authority to borrow money, only with the approval of the Minister with responsibility for public finance. Clause 2(4) inserts a new section 14A after section 14 of the Act, which enables the Minister with responsibility for public finance to make regulations for the financial control and regulation of the Authority and the conduct of its financial affairs. 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 Immigration Control (Amendment) Bill 2008;
2. The Medical (Gibraltar Health Authority) (Amendment) Bill 2008.

**THE IMMIGRATION CONTROL (AMENDMENT) BILL 2008**

**Clause 1** – stood part of the Bill.

**Clause 2**

**HON CHIEF MINISTER:**

In clause 2, in the Short Title, that it be amended so that this Act may be cited as the Immigration, Asylum & Refugee Act. So in

other words, to insert the ampersand before the word “Refugee” and then delete the words “and persons seeking international protection”.

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

### **Schedule 1**

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

In Schedule 1 Part 4, on page 55 of the Bill, in sub-clause (5) there, sub-clause (5)(a) in the second line there is a reference to the Department for Education and Skills. Of course, in Gibraltar it is the Department for Education and Training. So the word “Skills” should be replaced by the word “Training”.

Schedule 1, as amended, stood part of the Bill.

**Schedule 2** – stood part of the Bill.

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

### **THE MEDICAL (GIBRALTAR HEALTH AUTHORITY) (AMENDMENT) BILL 2008**

**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.

### **THIRD READING**

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

I have the honour to report that the Immigration Control (Amendment) Bill 2008 and the Medical (Gibraltar Health Authority) (Amendment) Bill 2008 have been considered in

Committee and agreed to, with amendments in the case of the Immigration Control (Amendment) Bill 2008, and I now move that they be read a third time and passed.

Question put.

The Immigration Control (Amendment) Bill 2008.

The House voted.

For the Ayes:	The Hon C G Beltran
	The Hon Lt-Col E M Britto
	The Hon P R Caruana
	The Hon Mrs Y Del Agua
	The Hon D A Feetham
	The Hon J J Holliday
	The Hon L Montiel
	The Hon J J Netto
	The Hon E J Reyes
	The Hon F J Vinet

For the Noes:	The Hon J J Bossano
	The Hon C A Bruzon
	The Hon Dr J J Garcia
	The Hon G H Licudi
	The Hon S E Linares

The Bill was read a third time and passed.

The Medical (Gibraltar Health Authority) (Amendment) Bill 2008, was agreed to and read a third time and passed.



## ADJOURNMENT

**HON CHIEF MINISTER:**

I have the honour to move that this House do now adjourn to Friday 18<sup>th</sup> July 2008 at 10.00 a.m.

Question put.                      Agreed to.

The adjournment of the House was taken at 11.07 a.m. on Wednesday 25<sup>th</sup> June 2008.

**FRIDAY 18<sup>TH</sup> JULY 2008**

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 Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism  
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,  
Technology and Transport and Deputy Chief Minister

**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 Reports on the Table.

Question put. Agreed to.

## **DOCUMENTS LAID**

### **HON CHIEF MINISTER:**

I have the honour to lay on the Table the Annual Report of the Gibraltar Regulatory Authority for the year ended 31<sup>st</sup> March 2008.

Ordered to lie.

### **HON D A FEETHAM:**

I have the honour to lay on the Table the Annual Report of the Gibraltar Prison Board for the year ended 31<sup>st</sup> December 2007.

Ordered to lie.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE PUBLIC FINANCE (STATUTORY BENEFITS FUND) ACT 2008**

### **HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to establish a replacement fund to the Short Term Benefits Fund, Open Long-Term Benefits Fund, Closed Long-Term Benefits Fund, Employment Injuries Insurance Fund, Insolvency Fund 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 amalgamates five Special Funds of the Government currently used to account for benefit payments prescribed by statute. The Bill amalgamates these five Funds into one new Special Fund to be known as the Statutory Benefits Fund. This new Fund will be, as I have said, a Special Fund for the purposes of Part 3 of the Public Finance (Control and Audit) Act. With retrospective effect from 1<sup>st</sup> July 2008, that is to say, the beginning of this month, all statutory benefits payable and all contributions receivable under the provisions of the following Acts and Regulations will be accounted for under the new Statutory Benefits Fund. The Acts in question are: the Social Security (Insurance) Act, the Social Security (Closed Long-Term Benefits and Scheme) Act; the Social Security (Open Long-Term Benefits Scheme) Act; the Social Security (Employment Injuries) Insurance Act and the Gibraltar Development Corporation (Employers Insolvency) Regulations 1996. Under those Acts the following funds, which currently exist to service the financial accounting needs of those five Acts, are the Short-Term Benefits Fund, which is established under the Social Security (Insurance) Act, the Social Security (Insurance) Act deals with short term statutory benefits; the Closed Long-Term Benefits Fund, established under the Social Security (Closed Long-Term Benefits Scheme) Act, and that is one of the two old age pension scheme funds; the Open Long-Term Benefits Fund, established under the Social Security (Open Long-Term Benefits Scheme) Act, that is the second old age pension fund; the Employment Injuries (Insurance) Fund, established under the Social Security (Employment Injuries) Insurance Act, and that is the fund that pays out and receives contributions in respect of employment injuries insurance. Finally, the Insolvency Fund, which is established under the Gibraltar Development Corporation (Employers Insolvency Fund) Rules. The monies in all these five current statutory funds will be transferred to the new Statutory Benefits Fund, and

the monies in the new Statutory Benefits Fund will be used solely for the payment of statutory benefits. However, this revised financial arrangement will lead to better use of the available cash reserves that have hitherto been held in separate funds. Entitlement to benefits are based on statutory rights. In any case, they do not depend on the availability of funds in the Special Funds. So the entitlement to benefits is completely unaffected by any of this, this is just an accounting book keeping re-organisation of the way the Government accounts for these monies in and monies out. So entitlement remains entirely unchanged. The apportionment, consequent on having just one statutory benefits fund, of combined social insurance and other contributions, hon Members will know that the social insurance contribution is in effect a composite contribution, one actually contributes to more than one thing when one pays the social insurance contribution. That can now be rationalised, presently, well, hon Members will recall that earlier this month we took some legislation which showed how the schedule to the Social Security (Insurance) Act is where the distribution, the apportionment to the various Funds of this composite social insurance contribution is contained. That will now be revised so that, basically, the contribution divides into two. A total of 70 per cent of it will go ....., but of course these percentages can be varied at any time in both directions. The Group Practice Medical Scheme will receive 70 per cent of the social insurance contribution, and this new single Statutory Benefits Fund will receive 30 per cent of it. This reform is linked to the overall on-going review and reform of social security. Reforms have already been made to the administrative collection and financial system relating to contributions. Responsibility for the collection of social security contributions has been transferred to the Income Tax Office. This has eliminated duplication of work and the requirement to have two separate databases. It has streamlined and improved the effectiveness of the collection system, and at the same time has eliminated some of the administrative burden on businesses by creating a one-stop shop. In 2007, we revised the system for charging social insurance contributions to ensure that low paid, part-time and casual workers pay significantly less in social insurance

contributions than used to be the case before that. Low paid workers are now able to pay a reduced level of contribution in line with their earnings, rather than have to pay the full contribution rates. For example, the recent increases in the maximum rate of social insurance contributions did not affect low paid workers, who continued to pay their contribution on the same percentage of earnings because they had not reached the ceiling of the maximum cap. The Statutory Benefits Fund balance as a separate cash reserve will be maintained at a level that will enable the Government to effectively manage medium-term cash flows, as well as any adjustment to contribution levels that may be required in order to meet on-going statutory benefits payments. But the important thing, is that the balance in the new Statutory Benefits Fund can be used only for the purposes of these five statutory benefits statute, and it is not to be regarded and cannot be regarded, and cannot be used by the Government as a source of funding for other purposes. 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 whether there is an actual prohibition, I have not noticed it but it may be there, on the use of the funds for anything else, which is the last point made by the Chief Minister in introducing the Bill, but of course, on the one occasion that money was removed we felt very strongly that it should not be done. So therefore, if that is not going to happen again we welcome that. When an indication was given in the Budget that this was going to be introduced, the Chief Minister only mentioned the Social Insurance Funds. He said that the Funds that were going to be amalgamated were the Old Age Pensions Short-Term Benefits and Employment Injuries. In fact, there was no mention in the Budget speech of including in these the Insolvency Fund. Therefore, although I said we would support what was announced in the Budget, because at the end of the

day the three social security areas of benefit are only three because of the problem we had with the Spanish pensioners, they were two originally, Short-Term Benefits and then the Pension Benefits, and we had to split the pension benefits into the Open and the Closed to deal with the situation created by the UK insisting on freezing pensions in 1988. But there was no particular reason, the reason why the Employment Injuries, for example, was separate was because initially in 1954, only employment injuries were covered by insurance. When the second range of benefits were introduced, like unemployment benefits and pensions, those were treated in a separate fund rather than with the first one. So we see no problem with having all the social security funds together in one, and indeed, there has been nothing to prevent money being moved from one fund to the other while they have been separate if that was needed. But we do not agree, as a matter of principle, talking about the general principles of the Bill, to the Insolvency Fund being grouped with the others. We think the Insolvency Fund is a fund of a separate nature from the others. The others are funds where, if one likes, workers take out insurance themselves, part of which they pay and part of which the employer pays, for covering themselves against accidents, unemployment and to make provision for old age. Therefore, that is clearly in the nature of an insurance cover for mishaps in one's working life. We think that the Insolvency Fund is in a different category altogether and, therefore, we cannot support the Bill because we think it is a matter of principle if the Insolvency Fund is included, we would support it if it was not.

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

Well then the Bill will have to pass without the support of the Opposition Members. I do not recall exactly what I said in the Budget address, but I do not think I used language that excludes this. It is called the Statutory Benefits Fund, the Insolvency Fund is a statutory benefit as opposed to a discretionary benefit of the sort administered under the Social Assistance Fund scheme. Insolvency is a statutory benefit. There is a statutory

right to it like all the other statutory benefits. I do not think it raises the issues of principle that the Leader of the Opposition has described. Look, there are several, if he cares to examine the breakdown of the social insurance contribution over the years, of the ones that he does not object to which are also only contributed to by the employer, and to which the employee makes xxxxxx I do not see why the Leader of the Opposition thinks that an issue of principle arises, when there is a contribution in a fund and a statutory right to benefits from the State when one is made redundant by an insolvent company, when one loses one's job, as opposed to when one gets injured working for a company, or as opposed to when one is unemployed from a non solvent company. The Leader of the Opposition may think that there is a reason why he should object, and that is entirely of course a matter for them. But the Government do not accept that any issue of principle arises. All of these are underscored by the same principles. Namely, (1) they are statutory as opposed to non statutory benefits, from which people, not just workers, benefit. They are all, including the one that he says raises a different question of principle, things to which the current social insurance contribution goes towards the funding of. At the moment, the contribution at the last time we allocated it may be down to zero, but that is by choice. It is part of the things that have historically been funded from the social insurance contribution. So, we do not accept. The Leader of the Opposition says "took cash out some time ago". I cannot quite recall this, but my recollection is, subject to my recollection not being accurate, that the money was actually used to put in another fund. I do not remember if it was used, does he remember? I do not think the money was used for general purposes of the Government. He started off his address by saying that last time we had taken money out of the fund he had objected. My recollection of that is that the money went into one of the other statutory funds but I am not certain. I will check that and remind him of it, unless he can remember now.

**HON J J BOSSANO:**

The point is that the Chief Minister has said that it will not be possible to use this money in these funds, other than to pay for statutory benefits.

**HON CHIEF MINISTER:**

No, that is not the point that I am addressing right now. The point that I am addressing right now is a statement that the last time we had taken money out of the funds he had objected vehemently or strongly, or whatever word he used, and that if it cannot happen again, that is the point about whether there is a statutory impediment or not. I was simply checking him on his preambular statement that the money had been taken out, because he then went on to say that, of course, it has always been possible to transfer money from one fund to another. My recollection, although I ask the House not to hold me to it 100 per cent, my current recollection is that that is exactly what happened. That it went from one fund to another and not out, but I could be wrong in that recollection.

**HON J J BOSSANO:**

The Chief Minister has said that these funds will now be used exclusively to support the statutory benefits in question. I have said that was always possible by moving things from one of the statutory funds to another of the statutory funds when they were separate funds. But of course, the last time the money was taken out and put into the Social Assistance Fund, which does not provide statutory benefits. Therefore, presumably, that will no longer be possible from the statement that has been made today, that it will be exclusively to support the statutory funds in future. But I do not know whether we have actually put a clause in there that says so or it is simply a statement of Government policy.

**HON CHIEF MINISTER:**

That is the point that I have just said to him I had not yet started to answer, which I was about to do. I was, first of all, only addressing the question of whether the purpose to which the first drawdown on the funds had been used. In fact, the Act does not contain a statutory prohibition but it is a question of Government policy. Indeed, the Government's policy is the opposite of taking money out of these funds, the Government's policy is to start building up these funds by a variety of means and devices that are being worked on. So I, of course, when we spoke in the Budget the Leader of the Opposition acknowledged that this was really just a housekeeping exercise. It remains a housekeeping exercise, it has no effect on fund transfer. I suppose there is a small effect and that is that, I am not sure that the current, no, I am almost certain that the current Gibraltar Development Corporation Employers Insolvency Fund is not a Special Fund under the Public Finance (Control and Audit) Act, and therefore, theoretically, before monies could not be passed under section 20 of the Act, I think it is section 20 or 21 of the Public Finance (Control and Audit) Act, where the Financial Secretary has the power to transfer surplus monies from one special fund to another special fund. I suppose then before it was not possible to transfer monies in and out of a special fund and the Insolvency Fund, the latter not being a special fund. But subject to that very small, the requirements of the Insolvency Fund thankfully, in a situation where very few companies go insolvent in Gibraltar, the demands on the Insolvency Fund are not particularly great. So I do not think that raises the issue of principles, the underlying principle is the line that he himself has just drawn in relation to the Government's previous withdrawal of funds. The underlying principle of this Bill is to accumulate the accounting arrangements, the payment out and contributions in, of statutory as opposed to non-statutory things by way of benefits. In other words, everything that is fundable by the social insurance contribution, which includes the Insolvency Fund. So I am sorry that the Opposition Members on such narrow a point, and this without conceding, which does not suggest that he is necessarily wrong. But this without conceding

the premise of his new principled objection, which is that what we are doing now is somehow inconsistent with what I said in my Budget speech. I have not got my Budget speech in front of me, so my characterisation of his so-called principled objections are in turn limited by the premise that, of course, if I did not in my Budget speech say anything that excluded the Insolvency Fund from that, then I do not believe that the premise of his new objection is in any event relevant. But in any case, this Bill is not the most important bit of business that this House has done. It is, as far as we are concerned, rationalisation of an organisational, accounting, book keeping function. It has certain conveniences and, therefore, whilst it would have been nice to have the Opposition Members' approval to it, it is a Bill that the Government, as indeed with all Bills, is happy to pass with its own majority in the House.

Question put.

The House voted.

For the Ayes:

The Hon C G Beltran  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon Mrs Y Del Agua  
The Hon D A Feetham  
The Hon L Montiel  
The Hon J J Netto  
The Hon E J Reyes  
The Hon F J Vinet

For the Noes:

The Hon J J Bossano  
The Hon C A Bruzon  
The Hon N F Costa  
The Hon Dr J J Garcia  
The Hon G H Licudi  
The Hon S E Linares

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 FINANCE (BORROWING POWERS) ACT 2008**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to provide for the raising of loans by the Government of Gibraltar for various purposes and for matters relating thereto, be read a first time.

Question put.

Agreed to.

## **SECOND READING**

**HON CHIEF MINISTER:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill does some modernisation of the legislation in the context of the new Constitution, but principally, and also establishes a new revised statutory limit on new borrowing by the Government, based on a number of criteria, as opposed to the current system which is simply a figure. It replaces the existing Borrowing Powers Act, under which the maximum borrowing level by the Government or public debt, as it is colloquially known, has been fixed at £100 million since 1988. As I told the House, I think, in my Budget speech, in 1988 this £100 million ceiling represented 66 per cent of the then Gross Domestic Product. Today, in the light of the continued economic growth and with forecast GDP for 2008 at £800 million, this borrowing ceiling represents just 12.5 per cent of GDP. Actual borrowing, of course, is a bit lower even than that because current borrowing stands at £93 million and not at the

£100 million limit, and that represents less than 12 per cent of GDP. By reference to any of the internationally recommended measures for assessing prudent levels of Government borrowing, our public debt is very low indeed. The UK's official ceiling on net debt, and the UK defines net public debt as being debt net of liquid assets owned by the Government, is 40 per cent of its GDP. That is what they regard as being very financially prudent and conservative, 40 per cent. The EU maximum bench mark is 60 per cent of GDP under the convergence criteria established in the Maastricht Treaty. There is, therefore, scope for increasing our public debt ceiling without materially increasing this in real economic terms, and without violating principles of prudence and affordability of public debt. Government consistently runs an annual budget surplus, with current expenditure being more than covered by current revenue. The surplus is normally historically been applied towards building up a cash reserve and for financing capital expenditure to the Improvement and Development Fund, in addition, of course, to funding the Government's very substantial programme of tax cuts. The new borrowing, which will become possible under this new Act, will assist the Government in partly funding Gibraltar's important capital investment programme. The level of public debt, both in terms of prudence and affordability, can be measured in real economic terms by a variety of indicators. The first, is the ratio of public debt to GDP and that is the one that has just been spoken about. Where the UK aims for 40 per cent and the EU has a maximum of 60 per cent under the convergence criteria, and Gibraltar's currently lies at 12.5 per cent or less. Other relevant measures include the ratio of public debt to Government revenue. In other words, what proportion of one's annual recurrent revenue does one's capital debt amount to? Usually it is a percentage around 80 per cent or something like that. Thirdly, the debt service ratio. That is to say, the ratio of debt interest payment to Government revenue. In other words, what proportion of a Government's total annual revenue is consumed by the servicing of its debt, the payment of the interest on its debt. So those are the three traditional methods, by which in macro-economic terms, public debt is assessed. The amount of debt as a proportion of GDP,

amount of debt as a proportion of total Government recurrent revenue and debt servicing cost as a proportion of total Government annual revenue. In order to ensure that Government borrowing remains within prudent and affordable levels, and also that any new Government borrowing is made in the context of the growth in the economy, the Act imposes a statutory limit on new borrowing by providing that no drawdown or additional borrowing will be permitted, that will cause the total gross public debt, I want to emphasize there the word "gross", to contrast it with the emphasis that I made of the word "net" when the UK uses its own criteria. So the UK says, I am doing very well if my net public debt, that is to say, my debt minus my piggy banks is 40 per cent of my GDP. We are not using that, we are using gross which is even more prudent than the UK, because we are not giving ourselves the benefit of our savings and our reserves when we come to calculate the amount of our debt for the purposes of these limitation formulas. We are using the gross level of debt without deducting from it, as the UK does, the amount of liquid assets that it has. So our criteria is, based as it is on gross public debt figures rather than net public debt figures, considerably more conservative and prudent than the UK's methodology. So no drawdown or additional borrowing will be permitted that will cause the total gross public debt to exceed the higher of, and here the Bill has a somewhat complicated formula, because there are highs and lows at two different levels in the formula, that will cause the total gross public debt to exceed the higher of (1) £200 million, which the House may be interested in knowing represents 25 per cent of current GDP, assuming the £800 million; or the lower of two things, 40 per cent of GDP, that is the same figure as the UK has, but we are using gross rather than net calculation figures, so in effect our figure is less than the UK's equivalent 40 per cent, or 80 per cent of Consolidated Fund recurrent annual revenue. In other words, we cannot draw any sum of money if at the time that the Government seeks to draw it down, the resulting debt, or rather the existing debt, would amount to more than 40 per cent of GDP or the debt servicing cost would amount to more than 80 per cent or rather, the amount of the debt would constitute more than 80 per cent of one year's Government revenue. So, 40 per

cent of the size of the economy or 80 per cent of one year's revenue. Or a further criteria which limits the annual debt service ratio would exceed 80 per cent of Government revenue. That, of course, is a moving target because the higher the rates of interest go, the greater the sum of money that it would take to service the Government's debt and, therefore, subject to the other variable, which is the amount of Government revenue, there is this limitation factor. In other words, the Government is saying servicing public debt interest payments should never cost the Government more than 80 per cent of its annual interest. These ratios impose a conservative limit on Government borrowing for an economy of our size. The new statutory limit will increase the Government's borrowing powers initially by £100 million. However, as the economy grows and Government revenues are able to sustain an increase in borrowing levels, the limit on new borrowing will be adjusted automatically, but always within these prudent and affordable ratios. So in other words, not just this Government but future Governments will be able to exercise borrowing judgements, not against some fixed sum which is really economically meaningless, but against a moving set of variables, which preserve a benchmark, preserve a criteria, which to boot, which criteria and benchmarks have been established at what by any economic standards are prudent and conservative levels as measures of affordability. I think there is no reason why the Government of Gibraltar should not operate with the same sort of economic freedom, in terms of borrowing in this way, as any other democratically elected government that is able to pay its own way in the world. So, I commend the Bill to the House.

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

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

Much of what is in the Bill is in fact a repeat of what there is in the existing Borrowing Powers Act. I think most of the sections are the same as in the new one, except that the numbering is

slightly out of joint. But of course, the formula is the new element really. When the explanation was given in the Budget speech by the Chief Minister, I took that to mean what in fact he has just repeated, which is that the debt ceiling, initially the ceiling is that the Government will have the ability to borrow an additional £100 million because the ceiling is going up from £100 million to £200 million, and as the economy grows and affects the other criteria that have been listed, it would be possible for that ceiling to adjust automatically. Now, that is what I thought was going to be done and, in fact, when I spoke in reply in the Budget I said that that seemed to be a sensible thing so that the Government would not need to keep on coming back and say, well look, we need another £10 million we need now to amend the ceiling from the £200 million to £210 million. In fact, the criteria are ones that permit expansion if the money is required. Obviously one does not bother if one does not need it. Then it seemed a sensible thing. Therefore, although we see nothing wrong with the level of £200 million in an economy of our size, and as I said in the Budget, it was, as far as we were concerned, really a question more of looking at how the money is invested than whether we are borrowing too much or not. It all depends on how one uses the money really. If we use the money to produce more money, then every business does that. But I am afraid we are not able to support it on the basis of, unless I misunderstood the formula, given my limited expertise in this area, because it does not appear to do what has just been said. That is to say, it does not permit that the figure should be adjusted automatically. It seems to me that what the formula does, indeed, is to create a ceiling below the £200 million immediately, because if one has got a situation where one of the criteria is linked to the size of the budget, and the size of the budget is £231 million in revenue, then on that basis the debt at present in the current year can only be £185 million and not £200 million. Now if the Government feel they should go up by £100 million, then why in the same Bill as they provide a ceiling of £100 million do they create another ceiling below the £100 million? Therefore, they would have to wait for Government revenue to increase to be able to reach the £200 million, and once they do that, as I read it, the ceiling is absolute



because the formula is that it is the higher of either £200 million or the lower of the others. On that basis it seems to me that the triggers created by the provisions in clause 3 of the Bill, would affect the £200 million if it actually produced figures lower than £200 million, which would in fact then mean a catastrophic collapse in the economy. For example, whereas on the present level of GDP the Government would be able to borrow considerably more than the £200 million, that is £320 million, the GDP would have to fall to £500 million for the figure to come below £200 million. Now, those figures we do not support the formula because the formula instead of being there as a method to enable the Government to adjust the figure upwards, seems to be there as a constraint on the Government's ability to borrow the £200 million if some other things happened which were negative, in terms of revenue or in terms of higher interest rates. For example, if it was £200 million then the trigger on the interest rate would then mean that on that £200 million they would have to be paying ten per cent, in order to have a situation where the interest servicing cost would be £20 million, which would then bring in the formula on the ratio of the interest servicing cost. I do not know whether this is an unintended result, or whether it is that I have incorrectly interpreted what it says there. But it does say the higher of (a) or the lower of (b). So the lower of (b) can never be higher than (a) because (a) itself is a ceiling which is incapable of being breached. Although we are not against the £200 million, we cannot abstain because we do not agree with the way the formula is there. It seems to be to constrain the ability to borrow £200 million. Either it is intended to be like that or perhaps the Chief Minister will demonstrate to me where I mis-read the clause.

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

Until I heard the Leader of the Opposition's explanation for withdrawing his support for this measure, I had began to think that he has just developed, since the Budget at the beginning of July end of June, a pathological inability to support Government legislation. This is the second skittle that is going to fall. I am

happy to say that it may be possible to retrieve his support for this Bill, because in fact, he has completely mis-read the formula. I did try to warn him in my opening address about the confusion in the formula by the juxtaposition of the words "higher" and "lower". This formula does not immediately create a ceiling below £200 million, although I accept, which is entirely understood and intentional, that but for the reference to £200 million it would be £185 million under the remainder of the formula. But the effect of the formula is not immediately to limit it to £100 million, it is actually the opposite. The effect of this formula is to say one can immediately borrow £200 million, even if in the context of the future formula, let me read it to him. Can I suggest to him that the easiest way to see the picture is for the words "or the lower of" substitute that for "X". So the formula would now read, "the aggregate public debt to exceed the higher of £200 million" or "X". Now what is "X"? "X" is the lower of two things, but that is a subsidiary formula. One is not in the realms of "X", one is in the realms of £200 million, because that is the formula. The whole purpose of mentioning the £200 million figure there is precisely so that, initially, because it is such a small proportion of GDP, that initially £200 million should be permissible even though we are building this in to the future, this formula, because when the economy gets bigger in terms of future increased levels of tax, we wanted this lower of two things to function. But this immediately allows £200 million regardless of anything that follows it. Immediately it is £200 million or the higher of £200 million or "X". So if "X" were higher than £200 million, I could actually borrow more than £200 million today. The trick to understand the formula is to substitute "X" for the words "lower of". The Leader of the Opposition will then find that it is the higher of £200 million or "X". "X" as he quite rightly says produces £185 million which is lower. As I am entitled to go for the higher, I am entitled to go for £200 million. So there is an immediate minimum of £200 million with the maximum thereafter for further drawdowns being that. So, I hope that if it is not the case of a general unwillingness to support Government legislation, he ought not to withhold his support just for that reason, because it does not create an immediate ceiling below £200 million. On the contrary, it creates an immediate

minimum of £200 million, regardless of the remainder of the formula that follows it.

Question put.                      Agreed to.

**HON J J BOSSANO:**

Can I just explain that we are, of course, voting in favour on the basis of the explanation we have just been given.

**HON CHIEF MINISTER:**

If I could also explain that had that not been the case, had they voted against, it would have been, not because I would be free to borrow too much, but because in his view I would not be free to borrow enough. Jestings apart, I accept that the hon Members' support is based on that explanation of the Bill.

The Bill was read a second time.

**HON CHIEF MINISTER:**

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

Question put.                      Agreed to.

**THE GIBRALTAR SAVINGS BANK (AMENDMENT) ACT 2008**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to amend the Gibraltar Savings Bank 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, of the trilogy, I think that this is the Bill that the hon Members indicated in my Budget outline, they would not be supporting. Therefore, in addressing this House I do not do so in the knowledge of any likelihood that the hon Members would support the Bill, even though I believe that the reasons for opposing it, outlined in the Leader of the Opposition's Budget response, were not justifiable. So, nevertheless, I remain duty bound to explain the purport of the Bill to the House and I shall do. The Bill amends the Gibraltar Savings Bank Act in order to modernise and bring it up to date with the new Constitution. Of course, that is not the only thing that it does. The proposed amendments to the Act also provide for the restriction in the investment of monies deposited in the bank, to cash deposits or other investments equivalent thereto in terms of protection of their capital value. In other words, it limits the bank's ability to invest depositors' money in cash investments, cash deposits or investments that are equivalent and do not jeopardise the capital value of the deposits. The capital value of what are by then the bank's funds. It also removes the ability of the Financial Secretary to advance Savings Banks money to the Government. These changes will result in a reduction in the risk to monies deposited in the Savings Bank, albeit that this is, in any case, has always been a theoretical risk in the sense that every depositor will continue to have a statutory guarantee by the Government, of the repayment of 100 per cent of any deposit made together with accrued interest. In other words, the existing Savings Bank Act already says that all deposits in the Savings Bank stand guaranteed by the Government as a charge on the Consolidated Fund. There will also be no reason in future to retain a reserve balance, which is currently unnecessarily locked up in the Saving Bank Fund, as I explained in my Budget address. The deposits in the Savings Bank are currently estimated to be in excess of £220 million, of which around £70 million are deposits of Government's own funds,

widely including companies and things like that. Over £150 million are third party deposits. The level of third party deposits have increased by some 500 per cent since 1996, from around £30 million in 1996 to over £150 million in 2008. The House will be aware that the current provision of the Act requires the Government not to remove surplus, not to move reserves from the bank unless the assets after any such transfer continue to exceed the liabilities to third party depositors by at least 10 per cent. In those years where the reserves have been less than 10 per cent of third party deposits, annual surpluses then have been retained within the Savings Bank fund, with the consequences that these reserves have over the years built up over the last ten years from around £8 million in the year ended March 1998, to an estimated £17 million in the year ending March 2009. The Savings Bank is not a credit institution as laid down by European Community law. It is not a commercial bank that requires an independent capital base. It is a statutory body, set up over 70 years ago, with its principal aim being that of encouraging savings in the community. It is wholly owned as a statutory body by the Government and all monies deposited in the bank are fully guaranteed by the Government under, as I have already mentioned, section 8 of the current Savings Bank Act. In other words, not only are the deposits in the Savings Bank guaranteed by the Government, but in addition under these amendments, for every £1 deposited in the Savings Bank every pound invested in the Savings Bank will be backed up by a ring fenced pound held in cash or cash equivalent by the Savings Bank to which the Government cannot have access for any of its purposes. The monies held by the Savings Bank have traditionally been invested in a portfolio of investments which have included fixed interest bonds, and other long-term investments where liquidity and short-term volatility of capital value have been exchanged for the prospect of a marginal increase in longer term investment returns. However, annually adjusted capital gains and losses in the Savings Bank portfolio have fluctuated over the past years by not more than around 2 per cent of deposits. Since depositors are and have always been fully protected by the Government's statutory guarantee, the ten per cent reserve effectively protected only the

Consolidated Fund and not the depositor from liability for the first ten per cent of any shortfall in the assets of the Gibraltar Savings Bank. To achieve this same result does not require £17 million of taxpayer's money, of Government monies, to be blocked in this way. In future, Government intends to achieve the same objectives by the alternative method of restricting the investment of the monies deposited in the bank, in the manner that I have just described. In other words, that we protect their capital value at all times. In other words, to ensure that the assets of the bank are not exposed to investments whose capital value may fall, thereby resulting in a deficit in the Savings Bank. The risk of failure of any bank in which the Government places cash deposits will be managed and mitigated by careful selection and diversification of deposits. This would enable the reserves, estimated at around £17 million, to be released and these are Government monies, not depositors' monies. These £17 million of Government monies can be released from the bank to be used and invested by the Government for the better benefit of the community at large. This is achieved without any risk whatsoever to the depositors in the Gibraltar Savings Bank. Although these reserves have always been Government monies, albeit held within the Savings Bank Fund, these reserves will now be transferred to and will form part of the Consolidated Fund reserve. In other words, they have always been Government reserves, they have always been Government money, now they go from that place where they are unnecessarily blocked into the general Government reserve account. As already announced by the Government, these monies are earmarked for investment in the building of the new Government rental housing estate. A contribution from the Consolidated Fund reserve to the Improvement and Development Fund, from where this project will be funded, will therefore be made as and when required. So, the main amendments included in the Bill are as follows. The reference in the Act to the Governor and Financial and Development Secretary are replaced as appropriate by Minister with responsibility for public finance and Financial Secretary. (2) The Financial Secretary's power to advance Gibraltar Savings Bank Investment Account deposits to the Government is being

removed. At present, investment deposits may be advanced to the Consolidated Fund in aid of general Government expenditure, section 11C(a)(1), and to the Improvement and Development Fund for the purposes of the Government's capital investment programme. The ability of the Government to access Savings Bank funds and lend it to itself to then use for Government purposes is being removed from the statute. Also being removed is the provision of section 11C(a)(3), which refers to the Gibraltar Investment Fund, a fund which was dissolved in 1997 as part of the then restructure of public accounts and finances. As I say, this means that depositors' money cannot be put in danger, even if the Gibraltar Government's finances were themselves to deteriorate. The reference in the Act to the management and control of credit institutions is also being removed, in view of the fact that it has now been clearly established that the Gibraltar Savings Bank is not deemed to be a credit institution under EEC law. Fourthly, the investment as I have already said, the investment of monies held by the Savings Bank will be restricted under new section 13(3), to cash deposits or other investments equivalent thereto in terms of the protection of their capital value. Fifthly, the requirement to maintain a reserve balance is being removed. However, there is a new provision that says that no annual surplus will be transferred out of the Savings Bank unless the assets of the Savings Bank thereafter are at least equivalent to 100 per cent of the liabilities to depositors. I commend the Bill to the House.

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

**HON J J BOSSANO:**

Yes, we will be voting against this Bill. I indicated at the Budget that that would be the case unless some arguments were produced in the course of bringing the Bill to the House, which explained the desirability of these changes, and we have not heard anything to convince us. Other than the fact that they

want to make use of the £17 million. Of course, the description of the situation of the bank, given the terms that have been used by the Chief Minister, is not something that is happening for the first time this year. He could have described it in exactly the same way at any time in the last 12 years, and that has been the case since the Savings Bank Act was introduced in 1935. Indeed, the protection created by the requirement in the existing legislation that the Consolidated Fund is responsible for meeting any shortfall in the ability of the bank to pay the interest to its depositors, or in the ability of the bank to repay deposits, has been there since 1935 as well. So it is not that additional security is being provided now in place of the 10 per cent capital base that is created by accumulated surplus. Indeed, until 1988 the figure was 15 per cent not 10 per cent and it was 15 per cent of all deposits, including the Government's, we changed it to 10 per cent of all deposits, including the Government, and then in 1997 the £70 million that has been mentioned as being the Government's own money in the bank, which is in investment accounts, was no longer made subject to that 10 per cent rule. I believe we supported that at that time, because after all, we are providing a 10 per cent back up on our own money and one is the owner, perhaps it made sense. But, of course, we have got a commitment to the expansion of the role of the Savings Bank and this is going in the opposite direction to that. That is to say, it is limiting the bank to a greater degree than has been the case in its history, in terms of what it may want to do or can do in the future. Let me just say that, of course, the section which is being removed which allowed the Financial and Development Secretary to make advances to the Consolidated Fund or Improvement and Development Fund, or the Investment Fund, are all related to monies in the investment account and the money in the investment account happens to be the £70 million of the Government's own money. So that, in fact, was put there at the same time as the Government created the investment account and put its money in it. It simply meant that if in the course of a financial year there was a need to make use of some money, rather than withdraw it and then redeposit it, the possibility of advancing it was created specifically limited to investment accounts, which is where the Government's own

money was. Obviously, we are voting against because we do not agree with these changes and the other thing I would just like to mention to the Chief Minister, is that many of the areas where credit institutions are mentioned in the existing legislation, were brought in with the amendment that came in 1992, where at the time the view that we had had from the UK was that because the EU legislation exempted State owned savings banks, like the National Savings Bank in the United Kingdom and in other Member States, but they had forgotten to exempt the Gibraltar Savings Bank, then the Gibraltar Savings Bank was caught by the Directive because it was not specifically mentioned as being exempted. That is why all the references to credit institutions were brought in at that time, which was at the time when passporting was supposed to be happening but did not. I note that in section 12 of the existing law, where it mentions the accounts of the bank, it requires that they should be audited in compliance with the statutory requirements operating in relation to the auditing of accounts of a credit institution, and that that apparently is not being amended. I do not know whether it is an oversight or a deliberate decision. But notwithstanding the fact that we have heard that it is under no circumstances a credit institution, they still want to retain that particular reference to a credit institution. But I am just bringing it to the notice of the Chief Minister, in case it has been left there inadvertently.

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

Yes, well, the Leader of the Opposition knows that we do not agree with the grounds upon which they object to this Bill. These are £17 million of Government monies, not of depositors' money. This is £17 million of Government monies that are locked and cannot be used for the purposes of the Government and the taxpayers, because they are there supposedly to provide a buffer. A buffer for what? Given that the depositor is already completely protected by the 100 per cent guarantee of his deposit from the Government. It is simply freezing £17 million of taxpayers' money that could be used for the benefit of

the taxpayer, for no additional gain to the depositors of the Savings Bank. None whatsoever. Yes, the Leader of the Opposition is right, we do think that that is a waste of taxpayers' resources and we do want to use the money, because if the taxpayer of Gibraltar has accumulated over the years £17 million of its money, that money should be used for the benefit of the taxpayer and not left there for some non-existent, theoretical purpose which benefits nobody. It is true, as he himself has just recognised, that the protection created by the guarantee from the Consolidated Fund, which is the same Consolidated Fund into which this £17 million is now going to be paid, has been there since 1935. Correct, that is why I told him during the Budget speech that actually the need for this reserve, except the fact that the law said it, the need for it I could not understand, perhaps it was never really necessary, given that coupled with the Consolidated Fund reserve it did not seem to me to be achieving very much. At least in the sort of times that we are living in now. Perhaps in the 1960s or 1970s, perhaps in those days the economy of Gibraltar and the finances of Gibraltar were such that that measure might have had a certain prudence or a certain significance. I think the Leader of the Opposition and I can at least agree that in the current socio-economic make up of Gibraltar that is no longer a necessity. But to the extent that the buffer, as he calls it, was there not to protect the depositors who did not need that buffer to be protected, but to protect the Consolidated Fund from perhaps having to be called upon under the guarantee. In other words, because the Government had that £17 million there, if there was a shortfall in the Savings Bank then before having to raid the Consolidated Fund, he could raid the £17 million. That is all, it was a sort of back pocket for the Government. Instead of before I have to put my hand in this pocket, I put my hand into this one first. But even that we have mitigated by removing almost completely the likelihood that we will ever have to put our hands in the front pocket, by limiting the investments of the bank to cash or cash equivalent. Well look, if the investments of the Savings Bank have got to be limited to cash or cash equivalent, the reasons why there could have been a shortfall in the bank requiring access to the Consolidated Fund guarantee would have been,



The Hon Mrs Y Del Agua  
The Hon D A Feetham  
The Hon L Montiel  
The Hon J J Netto  
The Hon E J Reyes  
The Hon F J Vinet

For the Noes: The Hon J J Bossano  
The Hon C A Bruzon  
The Hon N F Costa  
The Hon Dr J J Garcia  
The Hon G H Licudi  
The Hon S E Linares

The Bill was read a second time.

**HON CHIEF MINISTER:**

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

Question put. Agreed to.

**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 Finance (Statutory Benefits Fund) Bill 2008;
2. The Public Finance (Borrowing Powers) Bill 2008; and
3. The Gibraltar Savings Bank (Amendment) Bill 2008.

**THE PUBLIC FINANCE (STATUTORY BENEFITS FUND) BILL 2008**

**Clauses 1 to 6** – stood part of the Bill.

**The Long Title** – stood part of the Bill.

**THE PUBLIC FINANCE (BORROWING POWERS) BILL 2008**

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

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

**THE GIBRALTAR SAVINGS BANK (AMENDMENT) BILL 2008**

**Clause 1** – stood part of the Bill.

**Clause 2**

**HON J J BOSSANO:**

I mentioned on the general principles that the existing provisions in section 12 of the Savings Bank Act require that the account should be audited in compliance with the requirements in relation to the audited accounts of a credit institution. I asked the Chief Minister whether retaining this was deliberate or an oversight. Even though everything we have heard about a pound being put into a cash kitty and one pound in cash not being at risk, and the fact that all other references to credit institutions are being removed, because it is not a credit institution, I said is this an oversight or is this deliberate? Obviously, since there is only one clause in which all the amendments are, I wish to have a reply on that if possible.

**HON CHIEF MINISTER:**

I cannot tell the Leader of the Opposition whether it is deliberate or an oversight. It is not a point that has been addressed with me. I suppose, it is arguable, that even if it is not a credit institution, there is no harm in auditing it to the same high standards as if it were a credit institution. If the Leader of the Opposition prefers, we could just say “audited to applicable and appropriate standards”, leaving it to the Principal Auditor to decide what those applicable and appropriate standards are. We could do that. But I do not know what the effect would be of just removing it altogether and not having any benchmark.

**HON J J BOSSANO:**

Well, it says they are being audited in compliance with the statutory requirements operating in relation to the audited accounts of a credit institution. That was put in. That section was put in the same year that all the other references to credit institutions. Until then, that had not been a requirement. So it seems to me odd that we put in a dozen amendments on the premise in 1992 that this was a credit institution, and then we remove eleven of them and leave one behind. It just seems to me, the Government do not know what they may be letting themselves in for, with changing requirements for credit institutions, which would be totally irrelevant now that there is no reference at all anywhere.

**HON CHIEF MINISTER:**

Well, what I have said is that it is not a credit institution as defined in EU legislation. In other words, that EU law in relation to credit institutions does not apply to it. The reference in what would be section 12 of the Act, refers to a credit institution in its generic sense. I am checking as I speak to see whether it is a defined term.

**HON J J BOSSANO:**

It refers to the statutory requirements relating to credit institutions. The statutory requirements are going to be in the EU law or in the Gibraltar law on banks, on credit institutions. In compliance with statutory requirements, which clearly do not apply to something that is not a credit institution.

**HON CHIEF MINISTER:**

Well, I think we could just say, “and after being audited and certified by the Principal Auditor, in compliance with any relevant”, “shall after being audited and certified by the Principal Auditor, in compliance with any relevant and applicable standards, be laid before the Minister” et cetera. Yes, clearly it cannot be the intention that this reference should mean that it has to comply for accounting purposes with EU law in relation to credit institutions, when it is not a credit institution in EU law. I do not think that this means but.....

**HON J J BOSSANO:**

That is at least what the intention was when that clause was put in.

**HON CHIEF MINISTER:**

Yes, but see, then there might have been a definition of credit institution, which has now been taken out.

**HON J J BOSSANO:**

Not here, the definition was elsewhere.



**HON CHIEF MINISTER:**

Under the original Act. But anyway, I am quite happy to move the amendment that I have just suggested to accommodate the Leader of the Opposition's point. It is very kind of him to seek to improve legislation to which he objects.

**HON J J BOSSANO:**

No, I am just doing it to do a benefit. The Chief Minister does not seem to appreciate when I am trying to help him, never mind when I criticise him.

**MR SPEAKER:**

I think hon Members have been working from the principal Act, not from the Bill we have before the House. I think we need to introduce as a specific sub-clause.

**HON CHIEF MINISTER:**

The amendment is that clause 12 of the Act, that section 12 of the Act.....

**MR SPEAKER:**

So this should be a new sub-clause.

**HON CHIEF MINISTER:**

This should be a new sub-clause 18. "Section 12 of the Act is amended by deleting the words "and after being audited" where they appear after the words "Principal Auditor", and by deleting the words "other statutory requirements operating in relation to

the auditing of the accounts of a credit institution" and replacing them with the words "relevant and applicable standards".

Clause 2, 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:

1. The Public Finance (Statutory Benefits Funds) Bill 2008;
2. The Public Finance (Borrowing Powers) Bill 2008;
3. The Gibraltar Savings Bank (Amendment) Bill 2008,

have been considered in Committee and agreed to, with amendments in the case of the third mentioned Bill, and I now move that they be read a third time and passed.

Question put.

The Public Finance (Statutory Benefits Fund) Bill 2008;

The Gibraltar Savings Bank (Amendment) Bill 2008,

The House voted.

For the Ayes:

The Hon C G Beltran  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon Mrs Y Del Agua  
The Hon D A Feetham  
The Hon L Montiel

The Hon J J Netto  
The Hon E J Reyes  
The Hon F J Vinet

For the Noes: The Hon J J Bossano  
The Hon C A Bruzon  
The Hon N F Costa  
The Hon Dr J J Garcia  
The Hon G H Licudi  
The Hon S E Linares  
The Hon F R Picardo

The Bills were read a third time and passed.

The Public Finance (Borrowing Powers) Bill 2008,  
was agreed to and read a third time and passed.

## **MOTIONS**

### **HON CHIEF MINISTER:**

I have the honour to move the motion standing in my name and which reads as follows:

“This House resolves to hereby establish a civic award scheme for the following purposes and on the following terms:

1. The award shall be known as the Gibraltar Medallion of Honour and recipients' names will be entered in a roll of recipients to be maintained by the Clerk to the Parliament in terms and manner to be specified by the Government by Notice in the Gazette, and which roll shall be published annually in December in the Gazette.
2. The Gibraltar Medallion of Honour will be bestowed by Parliament, by Resolution, to living or deceased

Gibraltarians and others who, THIS HOUSE considers have served and contributed to the interests of Gibraltar and its people in an exceptional manner that is particularly worthy of special recognition by this House on behalf of the people of Gibraltar.

3. The Freedom of the City of Gibraltar, shall rank higher as a civic recognition than the Gibraltar Medallion of Honour, but every natural person (whether living or deceased) upon whom the Freedom of the City has in the past been, or is in the future bestowed, shall be entered in the Roll of Recipients of the Gibraltar Medallion of Honour.
4. Nominations for the Gibraltar Medallion of Honour may be made by any person in writing addressed to the Chief Secretary for initial consideration by the Government. Motions for a Resolution to bestow the Gibraltar Medallion of Honour on any person may be brought by the Chief Minister, who shall consult with the Leader of the Opposition before tabling any such motion. Nominations must contain a citation, of no more than five hundred words, specifying the basis of the nomination.
5. Resolutions tabled for consideration by the House must contain a citation, of no more than one hundred words, specifying the basis of the nomination.
6. Resolutions to bestow The Gibraltar Medallion of Honour will be approved by the House annually during the months of June or July, and will be formally presented to the Recipients by the Mayor on Gibraltar National Day that year, unless that is not convenient to the Recipient (in which case it may be presented on some subsequent date and occasion).

7. Recipients of the Gibraltar Medallion of Honour will be presented with:

- (1) a specially struck commemorative medallion which will bear on one side an image of the building that contains this House with the Rock of Gibraltar in the background, and on the other side an inscription in the following terms:

“Gibraltar Medallion of Honour. Bestowed by the Gibraltar Parliament on behalf of the people of Gibraltar for exceptional service and contribution to the interests of Gibraltar and its people”; and

- (2) a Certificate, signed by the Speaker on behalf of this House in the following terms and form:

- (3) at the very top of the Certificate there shall be an image of this Parliament with the Rock of Gibraltar in the background and the words “The Gibraltar Parliament.”

- (4) Underneath that, shall appear the words “Certificate of Gibraltar Medallion of Honour”

- (5) There shall follow the words:

“The Gibraltar Parliament has by Resolution of the House passed on the [date] bestowed the Gibraltar Medallion of Honour

UPON

[Name of Recipient]

For service and contribution to the interests of Gibraltar and its people in an exceptional manner that Parliament considered particularly worthy of

special recognition by it on behalf of the people of Gibraltar

NAMELY

[insert the language of the resolution citation]

Dated this [date]

Signed by me [name of Speaker] Speaker, on behalf of and with the authority of the Gibraltar Parliament.”

The medallions and certificates shall be produced and provided by the Government.

8. On this, the first year, and notwithstanding any other provision of this Resolution, the Gibraltar Medallion of Honour shall be bestowed, posthumously, upon the following persons:

(1) Mr Albert Risso, for services to trade unionism.

(2) Mr Jacobo Azagury, for services to art.

(3) Mr Rudecindo Mania, for services to art.

(4) Mr William Gomez, for services to music.

(5) Mr Joseph Pitaluga, for public service.

(6) Mrs Dorothy Ellicott, for public service and service to heritage.

(7) Mr Manolo Mascarenhas, for service to broadcasting.

(8) Mr John Mackintosh, for philanthropy.

(9) Mr Peter Isola, for services to politics.

(10) Mr Aaron Cardozo for services to Gibraltar.

9. The following past recipients of the Freedom of the City of Gibraltar shall be entered in the Roll of Recipients of the Gibraltar Medallion of Honour:-

- (1) Gustavo Bacarisas.
- (2) James Joseph Giraldi.
- (3) Sir Joshua Abraham Hassan.
- (4) Sir Robert Peliza.
- (5) The Rt Revd Monsignor Patrick Devlin.
- (6) The Rt Hon The Lord Merrivale (Jack).
- (7) The Lord Bethal (Nick).
- (8) The Lord Hoyle (Doug)."

Mr Speaker, at the moment the only award that can be awarded locally, decisions made by Gibraltar, by Gibraltarians, for Gibraltar, is the Freedom of the City. Of course, that prevents there from being a due recognition of people for whom the Freedom of the City may not be an appropriate award. This motion and the scheme that it creates is intended to fill that gap. The name Gibraltar Medallion of Honour, is a name intended to convey in a sense that it is an honour that is bestowed. I think it is appropriate that it should be the decision of Parliament, although of course, the Opposition Members will make their usual point that Parliament means its majority, and its majority means the Government side. We have tried, I will come back to that in a minute, as how we have tried to mitigate that and why we have limited the mitigation in the manner that we have when we come to paragraph 4. That there should be an annual publication, so it is not just a question of getting this medallion, one's name should be entered into a roll, so that over time we are creating a record of people that are recipients of this award. That roll should be published annually, to keep it relevant, to

keep the recipients of the awards in the minds of living Gibraltarians, so that they can reflect on whatever may have been those recipients' achievements and contributions to Gibraltar that present generations at that time will be benefiting from. I think that, of course, there has to be some definition of the degree of exceptionality. The vast majority of citizens make a positive, valuable contribution to society, whether in their work, through their efforts, whether through their families, through their friends or through their clubs or social interaction, very few people in society do not make a positive, valuable contribution that accrues and grows the quality of the society that we share. So, of course, it is important to place some restriction, some bottom line, because of course, otherwise there has got to be some definition of the minimum standard and degree of contribution that this particular award is intending to recognise. That is achieved by the words "served and contributed to the interests of Gibraltar and its people in an exceptional manner". That is the first, so the first thing it has got to be service and contribution to the interests of Gibraltar. Then it has to be in an exceptional manner, and then it has to be that is particularly worthy of, fourthly, special recognition. So that is not just anybody and anything, it has got to be all of those things. It is true, I think, to continue to view the Freedom of the City as the highest honour that this Parliament can bestow, but I think it would be a pity if the roll of Gibraltarians and others that have been honoured, should exclude, it then would not have people on it like Sir Joshua Hassan and others who are on the list in paragraph 9, Gustavo Bacarisas, because of course, what we cannot do is normally award to somebody something lower than what they have already got. So this is saying the Freedom of the City in effect in future includes entry into this roll of honour. Paragraph 4 provides for nominations to be by anybody and everybody, that is to say, all citizens should feel free to make nominations. I think that it is appropriate that there should be a centralisation of those nominations in the person of the Chief Secretary, and I think it is also right that the Government should get an opportunity to consider nominations first. Precisely because the Government has a majority in this House, and I think that people who are nominated should not have to go

through the trauma of being voted no in this House. In other words, it converts the possibility of an honour into the fact of a very visible and high profile rejection. So because the intention is that that is not what should happen, the intention is that because the reality of it is that unless the Government supports a nomination it is not going to prosper, there is no point in putting people to the public trauma of being rejected if the Government is not going to support the motion, which is not to say that the Government want to make these, ultimately of course, it is the Government's judgement. But whenever the Government gives itself the power, the Opposition Members react as if they accept and assume that they are going to be in Opposition for ever and that this party is going to be in Government for ever. Well, it is not going to be for ever but it is certainly going to be for longer than they would like. But please bear in mind that we are creating a regime. I am describing the hon Members' body language when I am referring to things about the Government. Opposition Members figuring and shuffling nervously meaning, by which to mean the Government. Yes, now I do mean the Government, because we are in Government, but we are creating a regime that hopefully will last a very, very long period of time, that 100 years from now it is still something that Gibraltar is doing, and that therefore, Government and the Leader of the Opposition should not be thought of as Caruana and Bossano, it should be thought about the offices into the future. I just hope that Opposition Members can see it in that vein, which is the vein in which the Government intends. Therefore, we think motions should be brought by the Government, and we think that the Government should consult the Leader of the Opposition, because the intention on the Government's part is that as far as possible this should be a roll of people across the floor of which there is some genuine degree of consensus, deserve to be added to this list. Of course, if the Government proposes somebody and the Leader of the Opposition were to say to the Chief Minister, well look, I do not think that person is comparable to any of the people that we have given it before, and frankly Chief Minister, I think you are only proposing that person because it is some friend or relative of yours and there is no underlying merit, and if

the Opposition is hugely opposed, then of course, normally the Government would respond to that and respect the attempt to reach consensus. Of course, what the Government cannot do is give the Opposition a power of veto, because that would be tantamount to giving the Opposition the power to be the one who decides whoever gets on to this roll. So this formula is an attempt to balance the Government's unwillingness to give the Opposition a veto, to which in normal democratic Parliamentary terms they are not entitled. But on the other hand, to give them the opportunity and to give the Government the opportunity to genuinely make decisions by consensus, but ultimately respecting the Government's theoretical power. The idea is that during the June or July sessions any motions that came forward would come forward. They would be debated and they would be presented by the Mayor on National Day. Paragraph 7 deals with what the award entails. It is a medallion, obviously not a small coin, it would have to get all these images and text in it, it would have to be a medallion, a large coin, and there would be this certificate. The idea is that it would very much be anchored in Parliament and it would be clear at that stage that it is a Parliamentary award and not a Government award. So there is no reference to the Gibraltar Government, either in the certificate or in the medallion, the Gibraltar Government does not feature in the medallion or in the certificate. The Gibraltar Government is not the keeper of the roll, it is this Parliament. So that is the intention. It should be an award given by Parliament but, of course, Parliaments operate through their majorities and there is no getting away from that in this, as there is not any getting away from it in any other Parliamentary business. Paragraph 8 is just ten people that the Government believe posthumously ought to receive this award, which is not to say that more people cannot get it posthumously in the future. In other words, the Government are not saying, as of today, of all the people that are deceased as of today we think that those are the only ten that deserve it. It is just ten, there may be more people who have died recently or even a very long time ago. There is the possibility to add recent and historical posthumous awards at any time in the future. We did not want the list to be too long and we did not want the first list to be too long,

particularly as the Government was compiling it by itself to give other people the opportunity to contribute to posthumous choices in the future. Paragraph 9 simply responds to our view that the roll should include people who have had the Freedom of the City, even though it is a higher award, and those that simply, the natural individuals who have received the Freedom of the City. Of course, some of them are deceased and some of them are still living. So, obviously, Gustavo Bacarisas, Dr Giraldi, Sir Joshua, Jack Merrivale, whose ashes in fact were scattered in the Bay of Gibraltar yesterday. Then the ones who are living, are there obviously for everybody to see, three or four of them happily are still with us. So, I hope that this motion will enjoy the support of the whole House. It is a genuine attempt on the Government's part to create a non-political civic award scheme. That is the spirit in which the Government move it and I hope the Opposition will support it in the same spirit. I commend the motion to the House.

Question proposed.

**HON J J BOSSANO:**

We are voting in favour of this. At least the Chief Minister can have the consolation that it has been two against and two in favour on today's agenda. As the Chief Minister has said, this was compiled by the Government by itself and, of course, not that we object to anybody that is there but we could have started the consultation by having had some advance notice of what was on the list. I have to say that I have already had some people approaching me about who is not on the list. So I think that we can expect that there will be some people happy to see someone on the list and other people wanting to know why somebody else that they think should be on the list is not there. Therefore, we will have to see how this develops in the future. Certainly, the people that have approached me with one particular name, I said I would mention it during the course of this debate, although I have pointed out to them that this is not a question of us proposing amendments to add names to the list

at this stage in the proceedings. In fact, what the motion provides is that any potential nominee should be submitted to the Government in the first instance, and that the consultation will take place presumably if the Government decides that they are willing to support it but not otherwise. I am not sure that that is the case.

**HON CHIEF MINISTER:**

The motion will be brought.

**HON J J BOSSANO:**

No, I am assuming that if somebody puts a name to the Chief Secretary and the Government first consider whether they think it merits being included, and they decide it does not, then the consultation does not follow and we will never know that it has happened.

**HON CHIEF MINISTER:**

No.

**HON J J BOSSANO:**

No, not necessarily. Then we might be consulting about rejections as well as approvals. The case that was put to me was that Sir Howard Davis had had a very distinguished involvement in many areas of Gibraltar at a very difficult time, the closure of the frontier, the parity battle, the riots. In fact, in some respects he was a Gibraltarian who reached a number of senior positions that at one stage was denied to Gibraltarians almost by definition, and that it was odd that he had been overlooked. I have said to those that had put that argument to me that I would mention it but that if they wanted it to be

considered for the future, then obviously, once this resolution is passed what they need to do is follow the procedure that is laid down in this, because I did not think it would be appropriate for me to try and propose amendments and say I have got my own ten list. The names on the list, other than those that have been given the Freedom of the City, many of those names, perhaps nearly all of them, are people that had buildings in the estates named after them. I wondered whether it was a question of selecting from those or whether in fact it was the other argument that the Chief Minister used, that in fact, to start off they wanted to keep some kind of limit on the list. Not necessarily because those were the only ones but because, simply, how many names does one start off with, ten, 20, 100? So I have taken note of those considerations and, therefore, also the fact that somebody is not there does not mean that he cannot be proposed by those who think he should be there and considered at a later stage. The other thing that crossed my mind when I read about the medallion was the metal from which the medallion would be made. I would have thought that something that we value very highly ought to be perhaps a gold medallion. However, if he is going to make it very big and he is only going to have £17 million that he is going to fish out of the Savings Bank and there is going to be a lot of names, I am not sure that the bank can stand it. Anyway, it is a matter for consideration. I will not move an amendment requiring that the medallion be gold but I put the thought in the Chief Minister's head, rather than put it to the vote, in that medallions of this nature which we are giving such a high value to, ought to be something that if the honoured holder of the medallion finds himself in dire straits, he can flog it with the price of gold now at \$500. The final point I would like to make is, does this in any way mean that the Governor's Certificate and Badge of Honour continues or not continue or can people be in both categories? We will, of course, be supporting the motion.

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

If I could start first of all with the Sir Howard point, of course, in the Government's mind, I am sure I speak for my colleagues, certainly I speak for myself, Sir Howard Davis would be an eminently suitable candidate to enter. He is not absent from this ten because the Government misjudged it. He is not, I explained before he made the reference to Sir Howard that the Government had specifically made the decision that it should not be an exhaustive list, and so that it should not look like this was the Government's view of everybody that should be there. The way to achieve that is to leave some people out who clearly should be there. That said, let me say that I have no difficulty whatsoever with moving an amendment to this motion to add Sir Howard Davis as the eleventh name. He is not absent because the Government does not think he should not be on it. He is absent from it because the Government does not think that everybody that should be on it, should be given it on this first year, on this occasion, in a list that only the Government has confectioned, thereby leaving nobody that can be put on in the posthumous bracket next year. In other words, this is not an attempt to establish the floor, so to speak, in respect of past. There are other people, not just Sir Howard Davis, who I think ought to be on this list. So, certainly, nobody should assess that the absence of Sir Howard Davis from this list is a reflection of the fact that the Government does not believe that he falls into the category of people described roughly by the ten people who are on this list. Not at all. In fact, there may be people on this list who should rank below Sir Howard. If this were in order, which it is not, there may be people here who get it after and not before Sir Howard. But that is not the basis upon which this list has been compiled. So, I am perfectly happy that we should move a joint amendment to include Sir Howard Davis on this list, and I so move.

**HON J J BOSSANO:**

In view of the response from the Chief Minister, I think it would be a good thing, given the fact that the first list is the first list and he does rank very highly in our history, I think.

**HON CHIEF MINISTER:**

Well, that is done then. The Leader of the Opposition then referred to the names on the buildings. It is true that some or all of these people are on the name of buildings, but the corollary is not true. In other words, not everybody who deserves to have a block in an estate named after them, necessarily meets the criteria in paragraph 2 of the award. So I would not expect everybody that has had a block in Edinburgh House named after them to end up on this roll. There may be others, I am not saying that some of the ones were on the buildings and not on this list, may be eligible to be on this list but it is not the case that all of them are eligible. Well, it is a matter of judgement of course, but in the Government's view one would not expect all of them to be in. The fact that one is entitled to some recognition does not mean one is entitled to a higher recognition or the highest recognition. There have to be grades of recognition, otherwise it very quickly loses its currency and its value and its impact. The Leader of the Opposition then asked whether the Government would consider making it a gold medallion. Well, I think that if it were gold, I do not know whether he means 9, 18 or 24 carat gold. Certainly, if it were 22 carat gold, which is what Kruger Rands and gold coins are made of, they would be very expensive and I think we would have people queuing up to be considered for an award. I think that the value of this to people is not the intrinsic value of the mementos that they receive, but the huge honour that it is for this Parliament, hopefully in all cases, unanimously in this House, to have their achievements recognised by the pinnacle of the representation of this community, which is this Parliament. Yes, it is always nice to have a very large gold coin stashed away somewhere for a rainy

day, but I do not think that that is what people will most value. But it can be gold coloured if he likes.

**HON J J BOSSANO:**

Gold plated.

**HON CHIEF MINISTER:**

Yes, or perhaps even gold plated. But anyway, we will consider that. We will consider what the make up is, perhaps we could have a gold plated medallion from metal taken from some historical Gibraltar metal object, an old gun, I do not know. We will find some way of trying to make the medallion itself interesting. As far as the no longer called the Governor's Certificate and Badge of Honour is concerned, it has been known as the Gibraltar Award for some time. This is completely different. That is an award issued by His Excellency the Governor on behalf of Her Majesty, advised by a small committee. This is an award granted by the Parliament of Gibraltar, on behalf of the people of Gibraltar, to citizens of Gibraltar or citizens from outside Gibraltar who otherwise meet the criteria. These awards are not in competition with Her Majesty's awards. This is not a rival system to rival OBEs, MBEs and other things at which the Governor's Certificate is at the bottom rung of. These are not to displace, to substitute, to compete with, this is something akin to the Freedom of the City, which we have always given but is something with a much more local, much more in our local gift flavour. There may even be occasions in which people do things which are in the interests of Gibraltar which may even disqualify them from an award from elsewhere, and which we may wish to recognise. So, I am very glad and grateful to the Opposition Members for making this initiative one that the whole House supports, because it is not intended as something for the term in politics of anybody who is on the floor now, it is intended as long term architecture for this community and it is right that we should all stand above the



current political fray when setting it up. I am grateful to the Opposition Members.

**MR SPEAKER:**

Do I take it then, paragraph 8 is being amended to include as number eleven Sir Howard Davis?

**HON CHIEF MINISTER:**

Correct.

**MR SPEAKER:**

For services to?

**HON CHIEF MINISTER:**

I would say public service.

**MR SPEAKER:**

In that case, the first question I should put is that I now put the question that the motion proposed by the Hon the Chief Minister be amended at paragraph 8, by adding sub-paragraph (11) to read "Sir Howard Davis, for public service".

**HON CHIEF MINISTER:**

At a motion jointly moved by the Chief Minister and the Leader of the Opposition. So that we can keep this set up. The amendment is jointly moved so that everything that goes into this motion has always been with joint.....

Question put. The House voted.

The amendment was carried unanimously.

**MR SPEAKER:**

I now put the question in the terms of the motion proposed by the Hon the Chief Minister as amended by consent of the whole House.

Question put. The House voted.

The amended motion was carried unanimously.

**ADJOURNMENT**

**HON CHIEF MINISTER:**

Mr Speaker, I have the honour to move that this House do now adjourn sine die.

Question put. Agreed to.

The adjournment of the House was taken at 12.10 p.m. on Friday 18<sup>th</sup> July 2008.

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

The Fourth Meeting of the Eleventh Parliament held in the Parliament Chamber on Thursday 18<sup>th</sup> September, 2008, 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,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED – Minister for the  
Environment and Tourism  
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 3<sup>rd</sup> April 2008, were taken as read, approved and signed by Mr Speaker.

**DOCUMENTS LAID**

**HON CHIEF MINISTER:**

I have the honour to lay on the Table:

1. The Annual Report of the Gibraltar Police Authority for the year ended 31<sup>st</sup> March 2008;
2. The Audited Accounts of the Gibraltar Regulatory Authority for the year ended 31<sup>st</sup> March 2008; and
3. The Consolidated Fund Supplementary Funding – Statement No. 4 of 2007/2008.

Ordered to lie.

## **ORAL ANSWERS TO QUESTIONS**

The House recessed at 1.30 p.m.

The House resumed at 3.00 p.m.

Oral Answers to Questions continued.

## **ADJOURNMENT**

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

I have the honour to move that this House do now adjourn to Wednesday 24<sup>th</sup> September 2008 at 9.30 a.m.

Question proposed.

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

I would just like to inform the House before this matter goes to a vote that I understand the Leader of the Opposition has written to Mr Speaker informing him that he will not be returning to Gibraltar until Thursday 25<sup>th</sup> September, because he will be attending the Labour Party Conference in the United Kingdom. I think it is proper that the House should be aware of that generally before it votes on the adjournment.

### **MR SPEAKER:**

Well, that is what the motion before me is. If the Leader of the Opposition is not able to put his own questions, I will permit somebody else.

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

If I may, the Chief Minister is also attending the Labour Party Conference and will be back in Gibraltar in time to attend Parliament.

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

If I may just also put on the record, because obviously that is a matter of information for which I am grateful to the Minister for, the Chief Minister will be attending the Government reception on the night of Sunday 21<sup>st</sup> September at the Labour Party Conference, he will return to Gibraltar, as I understand it, on Monday. The Labour Party Conference does not end on Monday, it will not end in fact until the Wednesday. That is why anybody attending the Labour Party Conference would not be back in Gibraltar until the Thursday.

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

I do not want to confuse the issue but I think the hon Member across the way is doing exactly that. The Chief Minister is attending the Party Conference and as a matter of attending the Party Conference is hosting a reception. He is not going to the UK to host a reception, he is going to attend and to host a reception. Attendance at the Conference, as the hon Member well knows, does not mean being there from day one to the last day. Some people prefer to do that and if the Leader of the Opposition prefers to do that, I mean I was not aware but I mean that is his choice and that is his prerogative. All I am saying is that the Chief Minister will be attending the Conference but has prioritised Parliament as being more important.

**HON F R PICARDO:**

I do not want to enter into a debate with the Minister on the motion about whether or not one should attend one, two, three or four days of the Party Conference. That is a matter for the Chief Minister, if he is going to attend for the Government, for the GSD, and for the Leader of the Opposition who is attending for the GSLP. What I did have to do, and I think it proper to do, was inform the public generally that the Leader of the Opposition would not be here on that day, and had informed the Chair of that already.

**MR SPEAKER:**

I do take that on board. Well again as the hon Member knows, I have no say in the fixing of the dates. I can only act as a conduit of information given that it is for the Government to decide how to conduct its business and I, as a servant of the House, have to make myself available and I will do so. Insofar as I have a discretion, I will allow the questions of which the Leader of the Opposition has given notice to be posed by any other Member in his stead on the day.

Question put.           The House voted.

For the Ayes:           The Hon C G Beltran  
                          The Hon Lt-Col E M Britto  
                          The Hon Mrs Y Del Agua  
                          The Hon D A Feetham  
                          The Hon L Montiel  
                          The Hon E J Reyes  
                          The Hon F J Vinet

For the Noes:           The Hon C A Bruzon  
                          The Hon N F Costa  
                          The Hon Dr J J Garcia  
                          The Hon G H Licudi  
                          The Hon S E Linares

The Hon F R Picardo

Absent from the Chamber:   The Hon P R Caruana  
                                  The Hon J J Holliday  
                                  The Hon J J Netto  
                                  The Hon J J Bossano

The motion was carried.

The adjournment of the House was taken at 6.45 p.m. on Thursday 18<sup>th</sup> September 2008.

**WEDNESDAY 24<sup>TH</sup> SEPTEMBER 2008**

The House resumed at 9.30 a.m.

**PRESENT:**

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

**GOVERNMENT:**

The Hon J J Holliday – Minister for Enterprise, Development,  
                          Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED – Minister for the  
                          Environment and Tourism  
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 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 P R Caruana QC – Chief Minister

The Hon J J Bossano – Leader of the Opposition

**IN ATTENDANCE:**

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

**ORAL ANSWERS TO QUESTIONS (CONTINUED)**

**ADJOURNMENT**

**HON J J HOLLIDAY:**

I have the honour to move that this House do now adjourn to Thursday 25<sup>th</sup> September 2008, at 9.30 a.m.

Question put.

Agreed to.

The adjournment of the House was taken at 11.30 a.m. on Wednesday 24<sup>th</sup> September 2008.

**THURSDAY 25<sup>TH</sup> SEPTEMBER 2008**

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 Enterprise, Development, Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED – Minister for the Environment and Tourism  
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

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

### **WRITTEN ANSWERS TO QUESTIONS**

The Hon the Chief Minister tabled the questions asked for written answer submitted by the Hon F R Picardo and the Hon N F Costa.

### **BILLS**

### **FIRST AND SECOND READINGS**

### **THE CREMATORIA ACT 2008**

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

I have the honour to move that a Bill for an Act to make provision for the management and operation of crematoria and for the regulation of cremations of human remains in Gibraltar, be read a first time.

Question put.

Agreed to.

### **ADJOURNMENT**

### **HON CHIEF MINISTER:**

I have the honour to move that this House do now adjourn to Wednesday 22<sup>nd</sup> October 2008, at 2.30 p.m.

Question put.

Agreed to.

The adjournment of the House was taken at 3.10 p.m. on Thursday 25<sup>th</sup> September 2008.

### **WEDNESDAY 22<sup>ND</sup> OCTOBER 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,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED – Minister for the  
Environment and Tourism  
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

### **COMMUNICATIONS FROM THE CHAIR**

#### **MR SPEAKER:**

There are a number of persons outside in the precincts of this House, who are impeding the access of hon Members to this House. I myself experienced certain difficulty, the Clerk, I know, has been attempting to have the access to this House cleared. There is a ruling from my predecessor but one, the Hon Sir Robert Peliza, about the definition of precincts of the House, that ruling has not been complied with by the demonstrators outside, the Police authorities have not yet secured compliance with that

ruling. While demonstrators in the free society that we are, have every right to express their views, but they must be done in accordance with the parliamentary practices and the law, and it is my duty to uphold parliamentary practices, therefore this House will recess until the access to Parliament House is completely unobstructed. I hope this should not take more than ten minutes.

The House recessed at 2.35 p.m.

The House resumed at 3.00 p.m.

### **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 Income Tax legislation on the Table.

Question put.                      Agreed to.

### **DOCUMENTS LAID**

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

I have the honour to lay on the Table:

1. The Income Tax (Allowances, Deductions and Exemptions) (Amendment) Rules 2008;
2. The Income Tax (Deduction of Approved Expenditure on Premises in Tax Deductible Property Zone) (Amendment) Rules 2008;

3. The Home Purchase (Deductions) (Amendment) Rules 2008;
4. The Home Purchase (Special Deduction) (Amendment) Rules 2008;
5. The Rates of Tax (Amendment) Rules 2008.

Ordered to lie.

#### **STATEMENT BY THE HON S E LINARES**

#### **MR SPEAKER:**

The Hon Steven Linares sought my leave to make a statement arising from an exchange during the last Question Time. I have read his statement and I have given him leave to make that statement.

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

Thank you Mr Speaker. In relation to Question No. 424 of 2008, I would just like to make a short statement to put the record straight. In Question No. 424 of 2008 and in relation to rehabilitation, I stated that the answer the Minister then gave me was that there were none, no programmes and no educational courses. What the Minister actually said in answer to Question No. 155 of 2007, and the question referred specifically to juveniles sentenced, was that rehabilitation programmes are only considered appropriate and beneficial for offenders who are given lengthy prison sentences. I, therefore, and without Hansard in front of me, inferred from the answer that there were no programmes and no educational courses available generally. It is not my style to purposefully mislead this House, and since I do not consider myself infallible like other people do, I just wanted to make this statement to put the record straight.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE POLICE (AMENDMENT) ACT 2008**

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

I have the honour to move that a Bill for an Act to amend the Police Act 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, the reasons for this Bill are that uncertainty entered into the minds of GSP officers as to whether they were, in fact, statutorily covered both with powers and the protection of statutes afforded to police officers whilst on the execution of their duty, whilst they were operating outside the MOD estate in support of the RGP. In the Police Ordinance, as it then was, Act as it is now called, before we introduced the new one in 2006, that contained the language that the present Police Act contains. In other words, no change of language was introduced from the old Police Act to the new Police Act. It was after that time that the GSP took up this issue about whether they were certain of statutory protection or cover or not. Before the new Constitution, when the Police Act referred to Governor in place of where it now does not, the Governor used to issue an annual certificate of some sort that was thought to cover the GSP in these circumstances. It is at least arguable that, in fact, it had no such effect. The purpose of this amendment is simply to recast section 78, which is the text in question, to make it clear



beyond peradventure that in the circumstances therein set out now, rather than before, before the new Constitution it would have been in whatever circumstances the Governor's certificate covered, which were xxxxxx, it was just a certificate of general application. So, section 78 is to be amended by this Bill so that it is clear that a GSP officer is deemed to be on duty, and that is the key concept in terms of invoking the protections of the Police Act, that a GSP officer is on duty in the circumstances listed in subsection (3)(i), (ii) and (iii) listed on either side of the pages of this Bill. Namely, firstly, when carrying out their lawful duties in relation to such areas of Gibraltar as are in possession, in the possession and under the control of the Ministry of Defence. In other words, when they are doing their primary function, which is to police the MOD estate. Secondly, when acting in support of the force, which is the term which in the Police Act means Royal Gibraltar Police Force, at the request of the Commissioner of Police. So whenever the Commissioner of Police requests the assistance of the GSP, outside the MOD estate, then those GSP officers that respond in support of the request of the Commissioner of Police, obtain the same statutory powers and statutory protection by virtue of our Police Act as RGP police officers do. Thirdly, in such other circumstances as may be prescribed by the Government in regulations. In case that there are any circumstances not covered by (i) and (ii), in which it is thought desirable or indeed necessary that GSP officers need the cover of statutory powers, and that they can be put into place through that mechanism. This Bill has been consulted with all interested parties, including the GSP Staff Association, and everyone has agreed that it does the trick of what is the concern that the Government was requested to address through such legislation. I therefore commend the Bill to the House.

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

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

To the extent that what this is doing is removing uncertainty and simply clarifying what has always been intended, clearly we have no problem with that and we will support it. One thing that I am not just very clear about is what is being removed, because it seems to me that what is being removed is something totally different from the explanation we are being given about what is being introduced, in the sense that the words that are being removed, which is "or for the security of which", that is an area for the security of which the Ministry of Defence has with the agreement of the Government assumed responsibility. Now, that suggests that in the existing law as it stands, there is provision for the Government, if it chooses, to ask the MOD to resume the responsibility of a particular territory, or a particular area, piece of land or whatever. That is now being removed and that does not seem to be the same kind of situation as the one we are making provision for, which is clarifying what is already intended to be the law. I do not recall any Government of Gibraltar ever asking the MOD to assume responsibility for the security of any part of Gibraltar, but I do not see why we are removing something which, in any case, cannot happen unless the Government of the day has a particular reason for needing the assistance of the MOD.

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

The hon Member has just more graphically described what I perhaps did in too much shorthand, which is the deficiency of the original. Subsection (2), as it originally stood, was the one that was thought to allow the Governor to issue a certificate which would empower GSP officers to support the RGP outside of the MOD estate. It was the realisation, I think initially by the GSP Staff Association on behalf of their members, who first came to the conclusion that for the very reasons that the hon Member has just said, that they did not think that this section gave the Governor vires. This section in these words simply did not mean that the Governor could sign a bit of paper providing

statutory cover for GSP officers when they are outside the MOD estate, precisely because of the reasons that the hon Member has just given. That it talks about security of areas of Gibraltar which was the agreement of the Government of Gibraltar with the MOD, but that is not the circumstance in which the certificates were being issued annually. This actually came to our attention when after the Constitution and after we amended the Police Act, this Governor was changed to Government. I entirely understand what the section was being used for at the time. So, I do not remember in 2006, so the next time that the Governor's annual certificate came to be renewed they could not send it to the Governor any more because it said "Government" now. So when the certificate was placed in front of me, I said, well under what section am I signing this? Then it was when we first understood ourselves why the GSP Association were saying to the MOD internally, and to the Deputy Governor before the new Constitution, look, we think that there is something iffy about the question of whether we have statutory protection and statutory cover for the exercise of our powers. It was in those circumstances, in response both to the view of the GSP Association who were expressing concern that they thought they did not have enough cover, coupled with our realisation when we were invited to sign the first certificate, that we came to the conclusion that really the language of the old subsection (2) did not cover, did not provide for the situation which was required. I think everybody eventually agreed with that, the Attorney General, the MOD itself, and this section is simply therefore trying to put into explicit words the purpose for which subsection (2) was being used before, even though it is, to put it at its most generously arguable, that subsection (2) could not have been used before for the purpose for which it was in fact being put. That is all that this section is doing.

Question put.                      Agreed to.

The Bill was read a second time.

## **HON CHIEF MINISTER:**

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

Question put.                      Agreed to.

## **THE CREMATORIA ACT 2008**

### **SECOND READING**

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

I have the honour to move that the Bill now be read a second time. Mr Speaker, the Bill before this Parliament contains five parts. Part I is straightforward and its two clauses provide for administrative matters, such as Title, Commencement and Interpretation of the Bill. With respect to clause 2, I should point out that at Committee Stage I shall be moving an amendment to clause 2, so that the current definition of "cremated human remains" is replaced by a definition of "human remains". This definition will be adopted throughout the Bill so as to make the Bill clearer. It should be noted that the new definition regards human remains to consist of a corpse or a still-born, and it is the cremation of these that will be regulated by this Act. Part 2 of the Bill provides a licensing regime for crematoria. An applicant for a licence to operate a crematorium must provide details relating to the site and the building. In addition, an approved engineer must certify that the building has been constructed in accordance with the plans and that after tests have been effected, he must certify that both local and EU legal requirements have been met. Clause 3 of the Bill further requires an applicant to provide details of its corporate ownership structure, and provides for the payment of a fee. The grant of a licence is discretionary and may be granted subject to conditions. Clause 3(3) sets out a non-exhaustive list of conditions which may be attached. These may include conditions regarding the monitoring of emissions and the types

of fuel that may be used, the material that may be used for caskets and the training requirements for staff. Clause 4 sets out further conditions that are of general application to operators of crematoria, and includes the need for approval for the use of appliances not covered by the existing licence. Clause 5 relates to the record keeping requirements that must be met by operators, and includes provision for the retention of records where the operator ceases cremating. Clause 6 relates to the interment of cremated human remains and whilst these may be interred in a public cemetery, it also acknowledges that interment is optional. Part 3 of the Bill sets out the procedure for the obtention of permission for a cremation. Applications have to be made to the Registrar of Births and Deaths under clause 9. Clause 9(2), sets out who may make an application, namely, (a) the executor or nearest surviving relative of the deceased, or a person duly authorised thereby; or (b) any person giving sufficient reason as to why the application is not made by a person referred to in paragraph (a) or the paragraph I have just read, the previous paragraph. Clause 9(3) requires that an application for cremation be accompanied by confirmation that there is no impediment to cremation. This confirmation will be evidenced by the certificate of a medical practitioner, the Coroner or the relevant overseas authorities as the case may be. Part 3 further provides for the necessary offences in connection with the application for cremation authorisation. Part 4 of the Bill permits the Registrar of Births and Deaths to apply for a court order permitting the cremation and subsequent interment of the remains in a public cemetery, of persons having no next of kin or whose next of kin have not assumed responsibility over the deceased. Under clause 20(1), no order will be issued where any of the following circumstances arise. (1) That the cremation was contrary to the wishes or religious beliefs of the deceased person, or that it is not practicable for the bodily remains to be cremated. At this point, I would point out that at Committee Stage I shall be moving an amendment to delete clause 20(1)(a), to clarify that a deceased person may be cremated unless there is evidence that that person did not wish to be cremated or that such an act would have been contrary to the deceased's religious beliefs. Part 5 of the Bill is entitled

“enforcement”, and clauses 21 through to 35 provide for the powers of entry, search and the retention of documents related to cremations. These powers will extend to persons whom the Minister has appointed under clause 21 and who will be issued with appropriate identity cards under clause 22. Mr Speaker, a number of offences are created. For example, under clause 30, refusal to comply with the requirement of an authorised officer. Under clause 31, hindering or obstructing an authorised officer. Clause 32, giving false or misleading information to an authorised officer. Clause 33, cremating or arranging for the cremation of falsely identified bodily remains. Clause 34, offences to dispose of falsely identified human remains. Clause 35, offences by bodies corporate. These are necessary for the due administration of the provisions of the Bill. At the Committee Stage I shall be moving amendments for the insertion of a new Part heading after clause 35, entitled “Part VI Miscellaneous”, and for a new clause 37. Clause 36 is a regulation making power which vests in the Minister. Clause 37, relates to the ashes of a deceased and this clause provides for the applicant for a cremation to indicate whether he wishes to keep these. In circumstances where the applicant does not wish to keep the ashes, the Registrar of Births and Deaths has two options. If the wishes of the deceased are known to him and if it is reasonable for him to comply with these, the Registrar will dispose of the ashes in accordance with the wishes of the deceased. In other cases, the Registrar may arrange for the interment of the ashes in a public cemetery. I have already given notice of one amendment and this notice has been circulated, and I will shortly be circulating a notice of further amendments. I have mentioned some of them just now and they are in total, if I have not miscounted, something like 25 different amendments. Together with the amendments, I will be circulating a marked up copy of the Bill to make it easier for Members on both sides of the House to follow these amendments. Mr Speaker, in order to give Opposition Members more time to study these large number of amendments, the Committee Stage and Third Reading of the Bill will not be taken today. I commend the Bill to the House.

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

**HON F R PICARDO:**

I am grateful for the Minister having indicated that we are going to have a little longer to consider the letter of the amendments that are to be moved. I note that from my understanding of what he has told us across the floor of the House, which is not the amendment of which notice has been given yet, that the definition of “cremated human remains” is to be changed and become the definition of “human remains”. I am trying cursorily to understand what that would do to the Bill, without having the opportunity of reading the marked up version, it may be this issue is dealt with there. I think it could give rise to some confusion which I am sure the Minister has considered and perhaps he can address. For example, in section 5 there is a reference to “the deceased” on a number of occasions at 5(1)(a), 5(1)(d). Then 5(1)(f) makes a reference to “cremated remains” rather than “cremated human remains”, and there is no definition of “cremated remains”. Maybe that is an error that needed to be rectified in any event, and that should have been “cremated human remains” to become now “human remains”. There is a reference in section 12 to “bodily remains”. My concern is that, of course, definitions are there to assist the person who is reading the Bill and this is an issue that goes just to the clarity of the legislation. With the words “cremated human remains”, when one is reading the Bill, one understands when reading a reference to that, that one is dealing with the remains post the process of cremation. When reading the words “human remains” that does not necessarily convey that moment of the post cremation and there could then be a misinterpretation between the words “the deceased”, “bodily remains” and “human remains”, none of which obviously refer to post cremation remains as they do now. Now that is why I think that the definition here, as it was, actually works quite well because it conjures in the mind of the person reading, immediately, when dealing with post cremation remains and when dealing with pre

cremation remains. I also note that the definition of “cremated human remains” includes a reference to the corpse of a human being and includes the corpse of a still-born child. None of the other references which I have alluded to, the deceased or bodily remains, includes a reference by definition to a still-born child. It may be that the Minister considers that is covered in any event and I do not want to get into any controversial issue as to the status of a still-born child, simply for the purposes of understanding the Bill, whether the Minister is satisfied that those references, references to “deceased” or references to “bodily remains”, not subject to definition, do include a still-born child or body of a still-born child also. Finally, in relation to section 20, section 21(a) which is being removed from what the Minister has told us, it suggests to me that what is going to remain is a regime whereby remains can be cremated, even if it is not clear that the contrary wishes of the deceased were that he should not be cremated. In other words, absent and obvious xxxxxx relief that the person did not wish cremation, although it is not practicable for the body to be cremated then there will be power under section 20 to cremate. Now in the Bill as originally drafted, there was a third limit the Minister noted, which is the one which is being removed, which was, in the absence of knowledge of the religious beliefs of the individual, then there would be no cremation in case that individual’s beliefs were contrary to cremation. Perhaps the Minister could tell us why it is that that decision has been made. It may be that that is the position generally in other states for the purposes of making the disposal of human remains more convenient to the state, in circumstances where it is not possible to determine the religious views of the person to be cremated. Those are our views  
*[Interruption]*

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

The first point made by the hon Member I think he will find is covered by the new definition of “human remains” which he will find says “means a corpse or a human being including the corpse of a still-born child, and cremated human remains shall

be construed accordingly". It is precisely because it was thought that the various references to "corpse" and "cremated human remains", and "human remains" and "bodily remains", could lead to confusion, that it was decided to standardise and do away with the original definition, and insert instead "human remains".

**HON F R PICARDO:**

xxxxxxxxxx will remain as references throughout?

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

Yes, the references throughout will be to the defined "human remains". I think the hon Member will find, once he has had a chance to read through the marked up copy, that it reads better and the meaning is clearer. That is precisely why this has been brought. I will leave it at that until he has had a chance to read it. The still-born child point I have covered, it is included in the definition. The amendment to clause 20, it was felt on further study of the Bill that clause 21(a), unless the wishes were known the body could not be cremated, that it was not really appropriate for the Government to put themselves in a position, or to put somebody else in the position, of having to interpret the desire or the thoughts of the deceased person. Secondly, that it made the position too tight in that, for example, if the body of an unknown person floated ashore, drowned at sea, or if a person without relatives or a person where there was dispute within the relatives of what the position was, that could be interpreted to mean that the wishes were not known. So it would be very difficult in many circumstances to actually cremate, so it was thought better to turn it round and put it the other way so that the expression had to be specific, otherwise it would be allowed.

**HON F R PICARDO:**

I appreciate that, I think that makes legislative sense. But I think then the message must go very clearly from this House, that what we are doing today, if people do not wish to be cremated they should make that wish very, very clear in order to ensure that the Government are not put in the position, those with the powers under the legislation are not put in the position of not having a very clear statement from an individual that could be misinterpreted as falling within the sort of bracket the Minister has referred to. I think that the message should go out loud and clear to anybody listening and to anybody who understands the legislation that is being made by this House, that they need to make provision, either in their wills or otherwise, if they do not wish to be cremated.

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

Yes, absolutely, I agree one hundred per cent. The Government agree with the hon Member, I reiterate the message he is sending out. The default position is that the person will be cremated or can be cremated, if the circumstances arise, if someone asks for the cremation. Remember, someone has to ask for the cremation in the first place but that the cremation will take place unless the person has specifically said, in a will or otherwise, that he or she does not want to be cremated. There has to be an application in the first place, otherwise it cannot. No one from the official side, from the Government side can take the initiative. There has to be an application by a member of the family or by the next of kin.

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 on another day.

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 Police (Amendment) Bill 2008, clause by clause.

**THE POLICE (AMENDMENT) BILL 2008**

**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 Police (Amendment) Bill 2008 has been considered in Committee, and agreed to without amendment, and I now move that it be read a third time and passed.

Question put.

The Police (Amendment) Bill 2008 was agreed to and read a third time and passed.

**ADJOURNMENT**

**HON CHIEF MINISTER:**

I have the honour to move that the House do now adjourn to Monday 3<sup>rd</sup> November 2008, at 2.30 p.m.

Question put.            Agreed to.

The adjournment of the House was taken at 3.35 p.m. on Wednesday 22<sup>nd</sup> October 2008.

**MONDAY 3<sup>RD</sup> NOVEMBER 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,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED – Minister for the  
Environment and Tourism  
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 Dr J J Garcia  
The Hon G H Licudi  
The Hon C A Bruzon  
The Hon N F Costa

**ABSENT:**

The Hon F R Picardo  
The Hon S E Linares

**IN ATTENDANCE:**

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

**BILLS**

**FIRST AND SECOND READINGS**

**THE PUBLIC FINANCE (CONTROL AND AUDIT)  
(AMENDMENT) ACT 2008**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to amend the  
Public Finance (Control and Audit) 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 short Bill amends section 33(2) of the  
Public Finance (Control and Audit) Act, in order to confer the  
power to reallocate monies between one development project  
and another of the same head of expenditure to the Minister  
responsible for finance instead of the Financial Secretary. This  
amendment brings section 33(2) into line with section 45(1),  
which confers the power to reallocate funds under the  
Improvement and Development Fund on the Minister  
responsible for finance. The Bill also amends sections 2(7), 28,  
41 and 44 of the Public Finance (Control and Audit) Act, where it  
refers to sections of the repealed Gibraltar Constitution Order  
1969, in order to refer to the equivalent provisions of the  
Gibraltar Constitution Order 2006. I commend the Bill to the  
House.

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

Question put.                      Agreed to.

The Bill was read a second time.

**HON CHIEF MINISTER:**

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

Question put.                      Agreed to.

**THE TRANSPORT (AMENDMENT) ACT 2008**

**HON J J HOLLIDAY:**

I have the honour to move that a Bill for an Act to amend the Transport Act 1998, be read a first time.

Question put.                      Agreed to.

**SECOND READING**

**HON J J HOLLIDAY:**

I have the honour to move that the Bill be read a second time. Mr Speaker, this Bill makes provision for the implementation in Gibraltar of Regulation EC No. 561/2006 of the European Parliament and of the Council, of 15<sup>th</sup> March 2006 on the harmonisation of certain social legislation relating to road transport, and amending Council Regulations EEC No. 3821/85 and EC No. 2135/98 and repealing Council Regulation EEC No. 3820/85 as amended, and Council Regulations EEC No. 3821/85 of 20<sup>th</sup> December 1985 of recording equipment in road transport, as amended. As Members of the House will know, EU Regulations are different from EU Directives in the sense that they are directly applicable. This means that they are law without further need for legislation. The reason why the Government is making provision for the implementation of these two regulations, therefore, is because EU Regulations occasionally require legislative intervention in respect of enforcement. In other words, this House needs to say whether

a breach of any regulation's obligation is to be treated as a breach of statutory duty, a criminal offence or a simple regulatory breach with administrative sanctions. The thrust of this Bill is therefore enforcement. Its aims are not to transpose the three regulations cited. Prior to going through the Bill on a clause by clause basis, I shall therefore say a few words about the EU Regulation itself.

Regulation EC No. 561 of 2006, applies to the carriage by road of goods by vehicles with a total mass exceeding 3.5 tonnes and to the transport by road of passengers by vehicles which are adapted for carrying more than nine persons. Some vehicles which fall into these categories are, however, exempt from regulation. In other words, vehicles used for carrying passengers on regular service, where the route covered by the service does not exceed 50 kilometres, are vehicles that do not need to be equipped with tachographs, but these regulations make provisions for control on the basis of service, timetable and duty rosters. Vehicles with a maximum speed not exceeding 40 kilometres per hour. Vehicles belonging to the Armed Forces, the civil defence services, fire services and forces responsible for maintaining public order, vehicles used for humanitarian aid, emergencies or rescue operations, breakdown vehicles, vehicles undergoing road tests for technical development, vehicles not exceeding the 3.5 tonnes used for non-commercial carriage of goods and vehicles which have an historic status and are used for non-commercial purposes. The Minister for Transport can also decide to grant other exemptions subject to individual conditions.

The legislation applies to all cross-border transport carried out exclusively within the territory of the Community, or between the Community, Switzerland and other countries party to the agreement of the European Economic Area, whereas the European agreement concerning the work of crews of vehicles engaged in international road transport, the AETR, applies to international road transport operations undertaken in part outside this area. This agreement applies to all vehicles registered in the AETR area, including the Community, for the



whole journey. It applies to vehicles registered in third countries which are not contracting parties to the AETR, only for the part of the journey in the AETR area, including the Community.

Driving time is subject to a number of rules. For example, the daily driving time should not exceed nine hours; twice a week may be extended to ten hours; the weekly driving time shall not exceed 56 hours; the total driving time during any two consecutive weeks shall not exceed 90 hours; the driver should record, as other work on the tachograph, any work time during which he is not driving, as well as any time spent driving a vehicle not falling within the scope of these regulations, and the journey time on a ferry or train when he has no access to a bunk or couchette; after driving for five or four and a half hours a driver shall take an uninterrupted break of no less than 45 minutes or 15 minutes, followed by 30 minutes over the same period; a driver may have at the most three reduced daily rest periods between any two weekly rest periods; in any two consecutive weeks, a driver may take only one reduced weekly rest period. In this case the reduction shall be compensated for by an equivalent period of rest taken en bloc before the end of the third week; where a driver chooses to do this, daily rest periods and reduced weekly rest periods may be taken in a vehicle, as long as the vehicle is stationary and has suitable sleeping facilities; when a driver takes a rest period, where the vehicle is transported by ferry or train, that period may be interrupted no more than twice for a maximum of one hour in total. The driver shall also have access to a bunk or couchette.

Transport undertakings or other bodies offering the same service must ensure that their drivers are able to comply with Regulation No. 3821/85/EEC on the tachograph. They may not award bonuses related to distances travelled or the amount of goods carried if that payment is such as to endanger road safety. They must ensure that transport time schedules are in line with this legislation and that data from digital tachographs are downloaded at the right time and kept for at least 12 months.

Transport undertakings are liable for infringements committed by drivers of the undertaking, except in cases where it cannot reasonably be held responsible, such as when a driver working for more than one transport undertaking has not provided sufficient information to the other of these undertakings, for them to be able to take the necessary measures to comply with this legislation.

The purpose of EU Regulation No. 3821/85/EEC is to complete and specify the working conditions applicable to drivers, particularly as regards driving time and rest periods and to ensure that these are observed through the obligation, to install and use recording equipment meeting strict standards in vehicles registered in Gibraltar or in a Member State which are used for the carriage of passengers or goods by road. Under the regulations, the competent authority must grant EU component type approval for any type of recording equipment to any model, record sheet or memory card which conforms to the requirements laid down in Annex I and Annex IB. Strict rules apply to the installation, inspection and use of the equipment. New vehicles which come into circulation must be equipped with a digital tachograph of the type specified in Annex IB, making it possible to record driving times on a memory card which replaces the record card sheets. For this reason Member States must issue memory cards to drivers. The recording equipment must be so designed that the driver memory card is locked in position on its proper insertion into the card reader. The relevant data will be automatically stored in the memory of the recording equipment. The release of the driver card may function only when the vehicle is stationary and after the relevant data has been stored on the driver card. The driver card makes it possible to store data on the driver's activities for a period of 28 days and of the vehicle for a period of one year. Should a driver card be full, the new data replaces the oldest data. The recording equipment must be capable of recording data relating to the driver's activity for a period of at least one year.

Turning to the substance of the Bill, clause 2 of the Bill sets out the scope, the reason for its inclusion here is to obviate the need for a long winded long title. Clause 3(2) of the Bill repeals section 36 to 41 of the Transport Act 1998. This section makes provision for the implementation of the EU Regulations as they exist in the previous incarnation. Both regulations have changed extensively and these sections now require updating. Clause 3(4) inserts a new Part IVA into the Transport Act 1988. New section 66A is an interpretation section. Its purpose is to define terms for the purpose of this Part only. Section 66B provides for a Part IVA to have effect with a view to securing the observance of proper hours or periods of work by persons engaged in the carriage of passengers or goods by road, in order to protect the public against the risks which arise in cases where the drivers of motor vehicles are suffering from fatigue. The Minister is given the powers to make regulations for the substitution or adaptation of the provisions of this Part, or supplemental or incidental to the Part that is considered necessary or expedient to take account of the operation of any relevant Community provision. New section 66C makes it the statutory duty for drivers not to exceed certain hours. These include the driver, the duty for a driver on any working day not to drive the vehicle to which this Part of the Act applies for periods amounting in the aggregate to more than ten hours. There are provisions also made in respect of rest periods. The section gives the Minister the power to make regulations providing for exemption. New section 66D makes provisions for the installation and use of recording equipment. It makes it an offence punishable at level 5 on the standard scale, for the use of a vehicle to which this section applies unless there is, in the vehicle, recording equipment which has been installed in accordance with the Community Recording Equipment Regulation, complies with the relevant Annexes to that Regulation and is being used as provided by Articles 13 to 15 of that Regulation, or in which there is recording equipment which has been repaired otherwise than in accordance with the Community Recording Equipment Regulation. New section 66E is one of consequential importance. It makes it an offence for a person who with intent to deceive, forges, alters or uses any

seal on the recording equipment installed in, or designed for installation in a vehicle to which section 66D of the Act applies. New section 66F is of evidential importance. It makes provision for records produced by tachograph equipment to be admissible in evidence in a court of law. Section 66G is once again of consequential importance. It imposes an obligation on employees or service providers to transmit records to their employer or principal. Section 66H deals with the downloading of data from the vehicle unit. In particular, it provides the data to be downloaded from the tachograph unit. New section 66 I deals with the downloading of data from the driver's card. In particular an undertaking must ensure the data is downloaded from the card. New section 66J makes the enforcement officer have the power in certain circumstances to require an undertaking without delay. New section 66K makes it an offence for non-compliance with the data downloading requirements. New section 66L makes an obligation of undertaking to give enforcement officers access to downloaded data. New section 66M gives the Minister powers to make regulations in respect of records. New section 66N gives officers the power to inspect records and other documents. New section 66 O enables officers to retain and copy records and drivers card. New section 66P gives officers the power to enter any vehicle to which Part IVA applies, in order to inspect the vehicle and any recording equipment in or on it. The officers can inspect, remove, retain or copy any records found. New section 66Q makes provisions consequential to section 66 O and 66P. In particular it makes provision for a maximum period for which the records can be retained. New section 66R creates the offence of obstructing an officer in the context of his duties under Part IVA. New section 66S, describes the circumstances in which a person can commit an offence. New section 66T gives officers the power to seize documents where he suspects an offence against section 66S has been committed. New section 66U gives persons authorised by the Minister the power to prohibit the use of a vehicle where a contravention of the EU Regulation is suspected. New section 66V makes provision for the duration or removal of a prohibition to use the vehicle under section 66U. Under this section a prohibition may be removed

by an authorised person if he is satisfied that appropriate action has been taken to remove or remedy the circumstances in consequence of which the prohibition was imposed. New section 66W makes provision for offences for the non-compliance of the prohibition. Such a person is guilty of an offence and liable to summary conviction of a fine at level 5 on the standard scale. New section 66X makes provisions for regulations by the Minister to give effect to an international road transport agreement. New section 66Y makes provision for the Part to apply to the Crown, with the exemption of military vehicles included in the section provided for in the EU Regulation. New section 66Z makes provisions for offences by bodies corporate. This is a standard clause imposing liability on the officer of a company in the case of negligence or recklessness on their part.

Finally, new Schedule 3 facilitates compliance with the new Community Drivers' Hours Regulation. Finally, the Schedule defines historic status for the purpose of the new automatic exemption in the new Community Drivers' Hours Regulation for commercial vehicles, which have a historic status according to the legislation of the Member State in which they are being driven, and which are used for non-commercial carriage of passengers or goods. I commend the Bill to the House.

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

#### **HON G H LICUDI:**

We will be supporting this Bill. Its effect, as the Minister has explained, is to give full effect, and I note that those are the words used in the Bill to give full effect to certain regulations. The Regulations, as the Minister already has explained, already are directly applicable but they have to be given full effect in Gibraltar by providing for an enforcement mechanism locally, and that we note is the thrust of this legislation. The Minister

has explained that the effect is to implement in Gibraltar Regulation 561 of 2006 and 3821 of 1985. I would welcome the Minister's comments with regards to the fact that those regulations have already been given effect in part in Gibraltar legislation. As recently as September 2008, there was introduced the Transport (Recording Equipment Minimum Conditions) Regulations 2008, which in part gave effect to Council Regulation 561 of 2006 and 3821 of 1985, and I would welcome the Minister's comments about the interaction between those regulations and this Act, whether those regulations are now to be taken as having been implemented pursuant to any of the provisions of this particular Act, because they do directly affect the question of recording equipment, which is what this Act is all about. I note also that there are various provisions in this Act which deal with the power given to the Minister to make certain regulations, and in particular, whether those powers will be deemed to have been exercised with regard to the regulations which are already given effect in Gibraltar in September 2008. There are, as I have said, various powers given to the Minister to make regulations. Under the new section 66B(1), there is a general power given to the Minister to be exercised whenever the Minister may deem fit or appropriate to give effect to applicable Community rules. We would welcome clarification on whether there are any such regulations already in the pipeline as part and parcel of this Bill, or whether it is a power that is there simply to give effect to whenever Community rules are introduced from time to time, so that the Minister will have that power available to him. We would also ask for clarification with regard to the definition of "driver" in the new section 66B(4), which provides that this Part applies to any person which is referred to as a driver. That is to say, and in (a) a person who drives a vehicle to which this Part applies, in the course of his employment, that is to be referred to as an employee driver. A person may certainly be required to drive in the course of his employment and not be employed as a driver, he may be employed as something else, as a caretaker or anything else and have driving duties as part of his duties in the course of his employment. Is it intended that this Act and these provisions, the enforcement mechanism, apply to such a person

who drives in the course of his employment but who not necessarily is engaged as a driver, or who not necessarily may have duties which may involve driving in a majority of the cases of the time that he is engaged? The reason this is particularly important, in the context of this Bill, is because the new section 66C provides for permitted driving time and periods of duty. Some of those subsections restrict the time in which a driver is permitted to drive, the driving times. Other of those subsections provide restrictions in respect of the periods of duty of the particular person, the driver, who as I have said is defined as someone who drives in the course of his employment. I have noticed that the Minister has confirmed that part of the requirement is that there should be equipment whereby someone who falls within this Act, is required to record times when not driving. Clearly that is intended to show when he is on duty and what driving time is taken up during the times that he is on duty. But if someone is employed other than as a driver and has driving as part of his duties, will that person who drives in the course of his employment, if this applies, be required to log and record all those times when he is not driving, and will that person then come under the various duties which new section 66C provides as to what times and rest periods have to be taken when on duty? Not just when driving, because most of the sections, the new section 66C, provide to periods in relation to being on duty rather than driving. We would welcome clarification on that particular point. The question that immediately arises because the thrust of this legislation is enforcement, is precisely how it is going to be enforced and we would welcome the Minister's views on that. There is a great deal of power given under this Act, the new Act, will give a great deal of power to somebody who was appointed as an officer for the purpose of the enforcement mechanisms in this Act. An officer will be entitled to require certain things of drivers and of transport undertakings, including the requirement to download data, access to data records, to inspect records, the power of entry and detention of vehicles, the power to seize documents and to prohibit the driving of a particular vehicle, so there is very wide ranging powers given to someone who is appointed an officer under the Act. We would welcome confirmation of the

Minister as to how in practice it is intended that this should be given effect. Is there someone who is already an officer of the Motor Transport Department, for example, who is already engaged and who is earmarked to provide these enforcement measures? My understanding, is that there used to be someone employed to carry out these sorts of checks, but that person has since retired or has left the service and has not been replaced. I would welcome the Minister's clarification as to whether that is the case, and if so, whether somebody will be employed specifically with a dedicated duty to police and enforce the provisions of this particular Act. The new section 66C(13), and this is something that is repeated at various stages throughout the Act, provides that a person who is subject to the requirements imposed by Article 10(4) of the Community Drivers' Hours Regulation, and fails to take all reasonable steps to comply with that requirement, shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale. So what we have is the creation of offences by reference to requirements imposed by the regulation itself, without those requirements being spelt out in this particular Act. As I have said, this is a feature of numerous sections and subsections, where there are a number of references to the Community Drivers' Hours Regulation and the Community Recording Equipment Regulation. The concern that we have is that this Act creates offences in respect of matters which are not actually spelt out in Gibraltar legislation, are simply there by reference to Community legislation. The difficulty there is in people knowing exactly what the duties and the requirements of Gibraltar law are, and although we all accept that Community Regulations are part of Gibraltar law and directly applicable, and clearly given that ignorance of the law is no excuse in a court of law, it would be useful for people to know through Gibraltar legislation exactly what those requirements are. Therefore, I would welcome the Minister's views as to whether it is proposed to expand on all these requirements, which are simply there by reference to various articles in the regulation, which people then have to go and look up. Or, in the alternative, whether the Minister's Department proposes to prepare a booklet, because some of these regulations are complex, they provide technical issues

which may not be readily understandable to laypersons, and therefore it would be useful, if at the very least, a booklet setting out what the particular requirements of these regulations are, which are made available either to drivers or to transport undertakings, would be provided. Otherwise we have simply references to other pieces of legislation, Community rules, which are not readily available to someone who is looking at this Act, who would have to go and look elsewhere. With regard to the new section 66E(2), provides that a person guilty of an offence under subsection (1), shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to a fine not exceeding the statutory maximum. Is it intended that on conviction on indictment the only penalty available to the court should be imprisonment, or should there be also a monetary penalty available? If it is intended that a fine should also be available to the court, then perhaps that should be spelt out. But again I would welcome the Minister's views as to what the intention of that particular section is. One final matter, which perhaps is a matter which could be taken at Committee Stage but I raise it at this stage for the Minister to consider. The new section 66Y(1) provides that subject to subsection (2) this Part shall apply to vehicles and persons in the public service of the Crown. That is stated to be only subject to subsection (2) and it applies to all vehicles and persons who are public servants. Yet subsection (5) provides that this part shall not apply in the case of motor vehicles while being used for police or fire and rescue authority purposes. So on the face of this section, we have one provision that says it applies to all public servants, and another one that says it does not apply to the police or fire. Maybe it is simply a matter in subsection (1), to referring also subject to subsection (5) as well. But again, it is a matter I simply point out for the Minister to consider whether it is absolutely necessary or not. Those are my general comments on the Bill.

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

Yes, just on one or two of the points that the hon Member has made which have resonance and application more widely than just this Act. The hon Member has asked whether the Department, the Ministry, the Government will give publicity to the regulations, given his view that they are not otherwise readily available. Well, the decision of whether to provide a user guidance booklet, as for example the Government did in the case of seat belts, is of course a matter for the Department and the Ministry in question. However, the Government would not accept the premise, if indeed that is what he meant, which is itself not clear, that because this is a body of EU law, there is somehow less availability of it. In other words, EU Regulations are as much a part of the law of Gibraltar as an Act that we pass in this House, and they are no more or less accessible to people. They are available in both printed and, indeed, on line at any number of European Union websites. So the Government do not accept, if indeed that was the thought process that he had in mind, that there is any particular onus on the Government to bring the provisions of one particular source of Gibraltar law more sharply to the attention of citizens on the grounds that ignorance of it is no defence, than indeed any other.....

#### **HON G H LICUDI:**

Just for clarification, certainly it is not suggested that in any way, shape or form Community legislation is not as much a part of Gibraltar law as Acts of this Parliament. The only issue that was raised was in the context of offences being created simply by reference to requirements of Community legislation. Whilst we certainly accept that regulations should be readily available, for the sake of certainty and clarity, it would be desirable, simply desirable from our point of view, if the ingredients of the offence were clearly spelt out in the legislation that actually creates the offence.

**HON CHIEF MINISTER:**

No, that is precisely the point that I am addressing. Every EU Regulation has a need to create an enforcement mechanism, and almost every EU Regulation results in the Government having to come to this House to create a matrix of offences and penalties for breach thereof. That is usually the only thing that has to be done following the adoption of EU Regulations, which as the hon Member clearly knows, has direct application. So to say, because we are creating offences with penalties in respect of a body of EU law that flows from EU Regulations and which are not clearly visible on the face of the Bill, we ought to be doing something else to bring it to the attention of the citizen, applies not just to the Transport Act but indeed to every single EU Regulation of which there is a massive body. Governments of Gibraltar have been doing the equivalent of this, in terms of creating offences in support of regulations, since Gibraltar has been in the EU. In other words, all I am trying to say is that there is nothing specific about this particular subject matter, that would necessitate or justify what is a standard situation, and that is that there are two sources of EU law, one is Directives, which means that the law does not become binding in Gibraltar until we pass it in this House, both as to the substance of the law and to the regime for its enforcement and breach. Then there is a second body of EU law in Gibraltar, EU Regulations, which once they are adopted in the EU have direct application in Gibraltar and in the rest of the European Community territory. Of that second sort there is already a huge body, and in respect of that huge number of regulations, of which this is just one more, it has not been the case that we have, we or any previous Government, have given the matter a greater degree of publicity. I think it would be a very dangerous precedent, nobody else, no other country in the EU does it, because the idea is that citizens should come to see EU law as just part of the general body of law of the Community territories. Of course, it is not any less accessible to citizens, or indeed to legal practitioners, in Gibraltar law. Most people now go on line to find out what the law of Gibraltar is, following the Government very helpfully putting up to date laws and keeping them up to

date on line, and we go on line to find EU Regulations as well. If one does not want to go on line, they are also available in hard copy. None of which is to say that there will not be cases where departments feel that there is a particular need to bring the provisions of a particular law to the attention of citizens, perhaps because it affects a huge change of practice to a very large body of citizens. One example where we took the view that that was necessary, was with the seat belt legislation, because here was a body of law that affects almost every citizen in their day to day lives, and to simply say, well look, there it is in Directive so and so, is not particularly enlightening. It is not normal to do that when the people affected are in a particular industry or in a particular trade, as opposed to the community at large who can be expected either to take legal advice or to know because they are operating that industry, what a rule is. So on a case by case, it is up to each department whether they feel it falls into the category of situations where there should be a little booklet provided or not. Insofar as the point he made about section 66E(2) is concerned, I think it is generally understood that what legislation does is create a maximum sentence, and what section 66E(2) does is in effect say that the court can imprison for a term not exceeding two years, and that is the maximum that one is liable to. But he knows generally that the court has a discretion to impose any penalty it likes, either fine or imprisonment, subject to that maximum. So I do not think that there is any defect as such in the operational sense of that section.

**HON G H LICUDI:**

Would the Chief Minister give way just before he sits down on that last point? I accept that that is the general premise upon which legislation is interpreted, that a maximum sentencing power is provided. Anything that falls short of that sentencing power is available to the court. Of course, the implication of that in relation to this particular section is that on conviction on indictment the maximum imprisonment is two years, but it is also possible to impose a fine. Now a fine can be an unlimited fine, it

can be subject to a limit defined in the statutes, it could be £10,000 or £20,000, or could be by reference to one of the particular scales which is used by the Magistrates' Court, which is levels one to five of the standard scale. The implication, therefore, would appear to be that this allows an unlimited fine and that might be a dangerous position to take if, in fact, that is not intended. Therefore, if a fine is at all possible, then there should be a limit imposed on that fine.

**HON CHIEF MINISTER:**

Well, there would be no difficulty in inserting there. The only point that I was defending is that the court has inherent jurisdiction in respect of levels of penalty, including fines, the Supreme Court's fining power is set out in the Act establishing it. But there is no difficulty in pursuing the more usual drafting device, which is to xxxxxx that I am sure the Minister will consider what the equivalent, not quite sure now what the equivalent is of two years, what scale, I will check on this what the equivalent is to that particular term of imprisonment. The final legalistic point, if I could deal with that, is the point he made about section 66Y, which was this business about application to the Crown. I am not sure, I may have misunderstood because I have only just returned into the Chamber and I am not sure that I heard the whole of his point. The purport of section 66Y(1) is that subject to subsection (2), this part of the Act does apply to the Crown and then section 66Y(2) says, but it does not apply to police, fire and rescue authority vehicles. That is section 66Y. So (1) says it does apply to the Crown and then (5) circumscribes that a little by excluding some Crown vehicles.

**HON G H LICUDI:**

Yes, but (1) says that it is only subject to subsection (2) and not subsection (5), that was the only point. To the extent that it is intended to circumscribe the application to officers of the Crown, by (5), then perhaps one should also refer to subsection (5).

**HON CHIEF MINISTER:**

Oh I see, I thought the point was more substantial that he was making. Well, I mean, I suppose the first couple of words in subsection (1) could have read, "subject as hereinafter provided" or something that does not suggest that the only circumscription is to be found in subsection (2), that there are other circumscriptions in subsection (5) as well. It would not be a problem for that to be amended in Committee to read, "subject as hereinafter provided", or "subject as herein provided" instead of the reference to subsection (2).

**HON J J HOLLIDAY:**

In order to try and clarify a couple of the points that were made earlier on in the hon Member's intervention, he referred to regulations that were passed in September in respect of the tachographs. I think, if I recall correctly, regulations at the time set up the framework for the tachographs, and although they are interlinked with some of the sections in this Bill, there were sections in that which required primary legislation and therefore it had to wait for the Bill to come to the House. However, they are very much interlinked. Then there was the point about whether there was intention to draft regulations in order to implement elements of this Act, and that is in fact correct. Regulations will be and are being drafted in order to proceed with the implementation of part of this Act, once the Act becomes law. Then he referred to section 66B in respect of drivers and whether this applied to just drivers who were employed as drivers and those who were drivers as part of their xxxxx. My own interpretation of this, is that it applies across the board, whether they are drivers that are employed as drivers, and whether they are drivers that are actually conducting the driving as a result of part of their duties when on employment. Then there is the point that the hon Member made in terms of enforcement. The enforcement, obviously, he made the point about the fact that we used to have one transport officer who is no longer in employment. I think there are a number of transport

officers within the Department of Transport that are not actually described as transport officers, but do undertake the role of transport officers and it will be these officers of the Department of Transport that will actually be undertaking the enforcement and the policing of this Act.

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 (UNFAIR TRADING) ACT 2008**

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

I have the honour to move that a Bill for an Act to implement the provisions of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices, 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, this Bill transposes Directive 2005/29/EC on unfair business-to-consumer commercial practices. The

Directive aims to introduce uniform rules on consumer protection throughout the European Community. It applies to business-to-consumer practices. The Directive defines and prohibits unfair commercial practices and requires States to ensure that adequate means exist to enforce compliance. Turning to the Bill itself, Part 2 of the Bill provides the scope of application. Clause 3 of the Bill provides that the Act shall apply to business-to-consumer commercial practices in relation to the supply of services to consumers, occurring before, during and after a transaction in relation to a service. The Act does not apply to the promotion, sale or supply of goods to consumers. The Act is without prejudice to laws relating to health and safety or more specific laws, or rules applying in particular sectors. Clause 4 of the Bill permits the use of common and legitimate advertising practice of making exaggerated statements or statements which are not meant to be taken literally. Part 3 of the Bill prohibits and defines what constitutes an unfair commercial practice. Commercial practice will be unfair if (1) they are contrary to the requirements of professional diligence and materially distorts, or are likely to materially distort, the behaviour of the average consumer; (2) they are misleading or aggressive as further defined in the Act; or (3) they are listed in Schedule 1, which contains a list of practices which would always be considered unfair. Part 4 of the Bill sets out what constitutes a misleading commercial practice. This includes misleading actions defined in clause 6, and misleading omissions defined in clause 7. Part 5 of the Bill sets out what constitutes aggressive commercial practices. Clause 8 of the Bill, defines aggressive commercial practices and clause 9 contains further criteria to be used in determining whether a practice is to be considered aggressive. Part 6 of the Bill provides for the consumer officer to encourage the control of unfair commercial practices by means of codes of conduct established by traders themselves. Part 7 concerns the enforcement of the Bill. Clause 11 provides for the appointment of a consumer officer to administer the provisions of the Act. The consumer officer is to consider any complaint that a commercial practice is contrary to the provisions of the Act, save where the complaint is frivolous or vexatious. The Minister may also designate persons who have the promotion of the interests



of consumers as their sole or principal aim. The person designated shall also have a duty to investigate complaints that commercial practices are unfair. A number of bodies may apply to the court for an injunction where they consider practices are unfair. These include the consumer officer, a person designated by the Minister or a consumer protection body from a European state. By virtue of clause 12, the court may in addition to making an injunction also impose a penalty on a trader. The penalty which may be imposed under the Bill includes a warning, a fine of up to ten per cent of the trader's turnover in Gibraltar, a fine of up to the statutory minimum for a summary offence, currently £5,000, removal of or limitation of any licence, permission or authorisation to trade in or from Gibraltar. Clause 13 sets out the consumer officer's power of investigation. Clause 14 places the burden of proof on the trader to prove that any claim made was inaccurate. Part 9 provides for the consequential amendments of existing enactments. This Bill sets out clearly what are considered to be unfair commercial practices by businesses providing services to consumers, and protects consumers from those practices. I commend the Bill to the House.

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

**HON DR J J GARCIA:**

Firstly let me say that the Opposition will be supporting the Bill. There is one question we would like clarified if the Minister is able to do that. That is, the Directive throughout refers to the word "products" and in the word "products" it includes services and goods, whereas the Bill that we have before the House refers only to services and not to goods. We are wondering whether the reason for that is because Gibraltar is not in the single market for goods, or whether there is another policy reason why the Government have chosen to go down this road.

We would like some clarification from the Minister and we will be supporting the Bill.

**HON CHIEF MINISTER:**

The legal base under which this measure has been adopted is the Community's Article 95. Article 95 applies to single market in goods. Gibraltar is not bound by EU measures that apply to single market in goods, and even in cases where we as a matter of policy would agree with an EU Directive, we are advised we would create a dangerous precedent if we look as if we are as a matter of obligation transposing a Directive which has no legal application to us. Therefore, pursuant to the case, the excise duty case, which so decided, we have no obligation to transpose in respect of goods but we do have an obligation to transpose in the case of services, which is why this Bill which is to transpose the Directive is limited to services. However, the hon Members should not by that deduce that we are opposed to the same regime in respect of goods. That will follow in what we could call domestic legislation, which does not look as if Gibraltar is abandoning the principle that we transpose as a matter of obligation what is an obligation, but we do not confuse what we do as a matter of obligation with what we do as a matter of choice. It is very important that we do not cross a line that creates a precedent against us of abandoning this business, that if it is adopted under an article from which Gibraltar is excluded, then that creates no obligation to Gibraltar. This is not a controversial area but if we create a precedent, the same argument could arise in a controversial area and it would be most unhelpful for anybody to be able to point back and say, "but you did it in relation to consumer protection". The Government are working on a wider consumer protection domestic not EU-driven, and many of these provisions, if not all of them indeed, will be clawed back in its application to goods as well as services. So this is limited to services only because it is a Bill to comply with an EU obligation, and the EU obligation only extends to services and does not extend to goods.

**HON C A BRUZON:**

Just a point for clarification. I always have a look at the definitions, and I have noticed that there is no definition for “consumer officer”. I just wondered whether that might be inserted if the Minister who proposes the Bill feels it is important. There is a definition of “the Minister” which means the Minister with responsibility for consumer affairs. But then there are a number of references to the consumer officer but this is not defined.

**HON J J NETTO:**

In relation to the second point by the Hon Mr Bruzon, in relation to the definition of the consumer officer, we can look at it in Committee in order to try and see whether we can insert it there. Following the first clarification from the Chief Minister, all I need to add is that I will be moving and I have circulated a paper, in which I will be moving a number of amendments at Committee Stage as well.

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 the House should now resolve itself into Committee to consider the following Bills clause by clause:

1. The Public Finance (Control and Audit) (Amendment) Bill 2008;
2. The Transport (Amendment) Bill 2008;
3. The Crematoria Bill 2008;
4. The Consumer Protection (Unfair Trading) Bill 2008.

**THE PUBLIC FINANCE (CONTROL AND AUDIT) (AMENDMENT) BILL 2008**

**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.

**THE TRANSPORT (AMENDMENT) BILL 2008**

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

**Clause 3**

**HON CHIEF MINISTER:**

If the hon Member is still concerned, we could make that small amendment to section 66Y, which I think is clause 3 of the Bill. We would have no difficulty with instead of “subject to

subsection (2)", to say "subject to the other provisions of this section".

**HON G H LICUDI:**

Mr Chairman, we have no difficulty either with that or "subject to subsections (2) and (5)".

**HON CHIEF MINISTER:**

Yes, it is just that I have not checked whether there is anything else.

**HON G H LICUDI:**

No, there is nothing else.

**HON CHIEF MINISTER:**

There is not, then that version is probably simpler then. By adding the words "and (5)" after the "(2)". So it would read: "subject to subsections (2) and (5)".

**HON G H LICUDI:**

The other point was in relation to the question of conviction on indictment.

**HON CHIEF MINISTER:**

Yes, and that was subsection.....

**HON G H LICUDI:**

That was the new section 66E(2).....

**HON CHIEF MINISTER:**

Yes, and there if the hon Member feels it would improve the clarity, that could be made to read, "on conviction on indictment to imprisonment for a term not exceeding two years and to a fine", leaving it to the court. In other words, no maximum.

**HON G H LICUDI:**

It would be an unlimited fine that the court has power to grant.

**HON CHIEF MINISTER:**

I am sorry, can we make sure the Clerk's pen is keeping up with us. Yes, and "to a fine" after the words "two years".

**HON G H LICUDI:**

There is the same provision in the new section 66N(6)(b) which provides this also. The point I was making was not so much whether there was a need to refer to a fine but whether the Government wanted to limit in any way the financial penalty. If the Government decide that it is to be to an unlimited fine then, so be it.

**HON CHIEF MINISTER:**

I think, without the time to look at it, it is best to leave it to the court's discretion. It is up to the court to consider what level of fine it would accept instead of a term of imprisonment. I know

that that is not the usual formula, but I think if we leave it to the court's discretion then I do not think we can go wrong.

**HON G H LICUDI:**

Do I take it that the same amendment is being done to section 66N(6)?

**HON CHIEF MINISTER:**

Yes, we are quite content. It has to be said that this is a matter of drafting style. It is not actually necessary and the particular draftsman of this Bill has not thought it necessary to go on to make it clear that the court can impose a fine as well. So wherever it appears "on indictment" it can read "and to a fine". I do not know whether he is able to say that he has only spotted it in those two or whether he is able to say for certain that there are only those two instances.

**HON G H LICUDI:**

I have not seen it anywhere else but one cannot say for certain.

**HON CHIEF MINISTER:**

Well, can we then agree as a Committee that if it does appear anywhere else, it is "and to a fine" as well? I will get the legal draftsman to actually trawl the Bill.

**HON G H LICUDI:**

Well, there is a further reference which may be helpful or not, the new section 66S(4) actually refers to "imprisonment for two

years or to a fine, or to both". So there is one subsection that refers to "two years, or a fine or both" and the other section....

**HON CHIEF MINISTER:**

"Two years, or a fine or both" is just an unnecessarily long way of saying two years and a fine.

**HON G H LICUDI:**

It is what it actually says in this section, so just for consistency maybe the same wording should be used.

**HON CHIEF MINISTER:**

That would be acceptable. I agree that it would not be ideal for one piece of legislation to use two different stylistic ways of achieving the same objective. So we shall settle then, contrary to what we just said, we will use the formula of words in section 66S(4)(b), which is "exceeding two years" and after the word "years" we would add, "or to a fine, or to both", in the previous two cases which we have spotted.

**MR CHAIRMAN:**

Before we leave clause 3 may I invite the hon Members to look at the definition of "driver" at page 141 of the Bill, "reference to subsection 66B(5)". My copy of the Bill at page 146 ends at (4) and that is where the definition is. Maybe a cause for rectification?

**HON CHIEF MINISTER:**

Yes, I think that should be a reference to (4), thank you Mr Chairman.

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

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

**THE CREMATORIA BILL 2008**

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

**Clause 2**

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

I have given notice of a number of amendments starting with clause 2, where we delete the definition of “cremated human remains”. In the definition of “cremation approval”, for “bodily remains” we substitute “human remains”. In the definition “crematorium”, for “bodily remains” substitute “human remains”. After the definition of “crematorium” we insert a new definition for “human remains”. It reads: ““human remains” means a corpse of a human being (including a corpse of a still-born child) and “cremated human remains” shall be construed accordingly;” Finally for clause 2, we delete the definition of “public grave”.

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

**Clause 3**

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

I think we are looking at something like 40 different amendments and as they have been circulated several days ago, if Opposition Members are agreeable, maybe we could take the

amendments as read instead of having to delay the House by reading them one by one.

**MR CHAIRMAN:**

Yes, I think we can take the amendments as having been put and subject to any comments we will just move from there.

**HON G H LICUDI:**

Yes, we will be happy to take the amendments as read and as identified in red in the appended copy.

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

In sub clause (1), delete the words “, herself or itself”.

In sub clause (1) paragraph (f), delete the words “unless a different fee is required by the Minister,” and replace with the words “where the Minister has by regulations prescribed a fee,”.

In sub clause (3) paragraph (a), delete the words “to any discharges” and replace with the words “of any discharges”.

In sub clause (3) paragraph (d), delete the word “corpse” and replace with the words “human remains”.

In sub clause (3) paragraph (e), delete the words “any corpses” and replace with the words “human remains”.

In sub clause (3) paragraph (h), delete the word “crematoria” and replace with the word “crematorium”.

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

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

### **Clause 5**

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

In sub clause (1) paragraph (a), delete the words “identity number” and replace with the words “identity card number or passport number”.

In sub clause (1) paragraph (d), delete the words “identity number and mailing address of a person who had a kinship relation with the deceased, and who applied for the cremation” and replace with the words “identity card number or passport number and mailing address of the person who applied for the cremation and his relationship, if any, to the deceased”.

In sub clause (1) paragraph (i), delete the words “such other information as the Minister may from time to time prescribe by notice in the Gazette” and replace with the words “the Minister may by regulations add to or amend paragraphs (a) to (h)”.

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

**Clause 6** – was agreed to and stood part of the Bill.

### **Clause 7**

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

Delete the clause and replace with the following:

“7.(1) Subject to regulations made by the Minister under section 36, a person must not cremate human remains or assist in the cremation of human remains at any place other than –

- (a) at a crematorium approved under Part II;  
and

- (b) in accordance with any conditions attached to the approval.

- (2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale or 6 months imprisonment or to both.”.

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

### **Clause 8**

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

In sub clause (1), delete the words “bodily remains” and replace with the words “human remains” on both occasions where it appears.

In sub clause (2), delete the words “A person responsible for any act or omission contrary to subsection (1) will be” and replace with the words “A person who contravenes subsection (1) is”.

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

### **Clause 9**

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

In sub clause (1), delete the words “bodily remains” and replace with the words “human remains”.

In sub clause (3) paragraph (b), insert the words “, in the prescribed form,” after the word “certificate” and delete the words “under the Coroner Act” after the word “Coroner”.

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

#### **Clause 10**

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

Delete the clause and replace with the following:

“10. A person who makes a false statement in an application for a cremation authorisation is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale or 6 months imprisonment or to both.”

Clause 10, as amended, was agreed to and stood part of the Bill.

**Clause 11** – was agreed to and stood part of the Bill.

#### **Clause 12**

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

Delete the words “bodily remains” and replace with the words “human remains”.

Clause 12, as amended, was agreed to and stood part of the Bill.

#### **Clause 13**

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

Delete the clause and replace with the following:

“13. A person who makes a false statement in any application to which this Part relates, is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale or 6 months imprisonment or to both.”

Clause 13, as amended, was agreed to and stood part of the Bill.

**Clause 14** – was agreed to and stood part of the Bill.

#### **Clause 15**

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

Delete the words “or she”.

Clause 15, as amended, was agreed to and stood part of the Bill.

#### **Clause 16**

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

Delete the clause and replace with the following:

“16. A person who makes a false statement in a certificate of a registered medical practitioner under section 14, is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale or 6 months imprisonment or to both.”

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

#### **Clause 17**

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

Delete sub clause (1) and replace with the following:

“(1) Subject to the provisions of Part IV, a person who interments cremated human remains or assists in the interment of cremated human remains in a public cemetery unless the Superintendent of the Cemetery has

authorised the interment with the consent of the Registrar of Births and Deaths, is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale.”.

Clause 17, as amended, was agreed to and stood part of the Bill.

**Clause 18** – was agreed to and stood part of the Bill.

**Clause 19**

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

In paragraph (a), delete the words “the remains of any person” and replace with the words “human remains”.

Clause 19, as amended, was agreed to and stood part of the Bill.

**Clause 20**

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

In sub clause (1), delete the words “bodily remains of the person unless he” and replace with the words “human remains unless the court or the Coroner, as the case may be,”

In sub clause (1), delete paragraph “(a)” and re-letter paragraphs “(b)” and “(c)” to read “(a)” and “(b)” respectively.

In sub clause (1) re-lettered paragraph (b), delete the words “bodily remains” and replace with the words “human remains”.

Clause 20, as amended, was agreed to and stood part of the Bill.

**Clauses 21 and 22** – were agreed to and stood part of the Bill.

**Clause 23**

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

Delete the words “or her”.

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

**Clause 24**

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

In sub clause (1), delete the words “or she”.

In sub clause (2) paragraph (a), delete the words “or her”.

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

**Clause 25**

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

Delete the words “or she”.

In paragraph (b), insert the words “and the Minister may by regulations make provision for the powers of the court in such circumstances” at the end of the paragraph.

Clause 25, as amended, was agreed to and stood part of the Bill.

**Clause 26** – was agreed to and stood part of the Bill.



**Clause 27**

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

In sub clause (1) paragraph (a), delete the words “or she”.

In sub clause (2), delete the words “or she”.

Clause 27, as amended, was agreed to and stood part of the Bill.

**Clause 28**

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

In sub clause (1) paragraph (a), delete the words “or herself”.

In sub clause (2) paragraph (a), delete the words “or herself”.

Clause 28, as amended, was agreed to and stood part of the Bill.

**Clause 29** – was agreed to and stood part of the Bill.

**Clause 30**

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

Delete the clause and replace with the following:

“30. A person who without reasonable excuse fails to comply with a requirement of an authorised officer under this Part, is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale.”.

**HON G H LICUDI:**

Just on clause 30, just reading the section, “a person without reasonable excuse to comply with a requirement”, it does not seem to read right.

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

The amendment is “a person who without reasonable excuse fails to comply”.

**HON CHIEF MINISTER:**

It is printed twice.

**HON G H LICUDI:**

The copy that we have simply has “a person then must not refuse or fail” crossed off...

**HON CHIEF MINISTER:**

Is it reprinted again the whole section underneath?

**HON G H LICUDI:**

Oh right.

**HON CHIEF MINISTER:**

Which is itself an error.

**HON G H LICUDI:**

Yes, so I take it that we are just dealing with the second part of the amendment and the first 30 should just be deleted?

**HON CHIEF MINISTER:**

It should read “a person who without reasonable excuse”.

**HON G H LICUDI:**

“Fails to comply” as set out in the second 30.

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

And indeed, as written in the amendment as circulated.

**HON CHIEF MINISTER:**

That is not the only defect, the word “fails” is also missing, not just the word “who”.

**HON G H LICUDI:**

Yes, “fails” in the first part.

Clause 30, as amended, was agreed to and stood part of the Bill.

**Clause 31**

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

Delete the clause and replace with the following:

“31. A person who without reasonable excuse, hinders or obstructs an authorised officer exercising a power under this Part, is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale.”.

Clause 31, as amended, was agreed to and stood part of the Bill.

**Clause 32**

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

In sub clause (3), delete the words “Any person found guilty of any act or omission contrary to this section” and replace with the words “A person who contravenes subsection (1) or (2) is guilty of an offence and”.

Clause 32, as amended, was agreed to and stood part of the Bill.

**Clause 33** – was agreed to and stood part of the Bill.

**Clause 34**

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

In the heading to the clause, delete the words “bodily remains” and replace with the words “human remains”.

In sub clause (1), delete the words “bodily remains” and replace with the words “human remains”.

In sub clause (2), delete the words “Any person found guilty of an act or omission contrary to this section” and replace with the words “A person who contravenes subsection (1)”.

Clause 34, as amended, was agreed to and stood part of the Bill.

**Clause 35** – was agreed to and stood part of the Bill.

**Clauses 35 and 36**

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

After clause 35 and before clause 36, insert the following part heading:

“PART VI  
MISCELLANEOUS”

The amendment, was agreed to and stood part of the Bill.

**Clause 36** – was agreed to and stood part of the Bill.

**New Clause 37**

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

After clause 36, insert:

“Custody etc. of cremated human remains.

37. (1) Cremated human remains shall be given into the charge of the person who applied for the cremation of those human remains unless at the time of the application he indicates otherwise.

(2) Any cremated human remains which are not claimed in accordance with subsection (1) shall be deemed to be in the possession of the Registrar of Births and Deaths who may -

- (a) if the deceased's wishes are known and if the Registrar of Births and Deaths believes those wishes to be reasonable, dispose of the cremated human remains in accordance with those wishes; or
- (c) arrange for their interment in a public cemetery.”

New Clause 37, was agreed to and stood part of the Bill.

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

**THE CONSUMER PROTECTION (UNFAIR TRADING) BILL  
2008**

**Clause 1**

**HON J J NETTO:**

I have given notice here that in clause 1 the title is to be replaced with the following:

“Title and commencement.

1. This Act may be cited as the Consumer Protection (Unfair Trading) Act 2008 and comes into operation on the day of publication.”

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

**Clause 2**

**HON C A BRUZON:**

May I remind the Minister what I mentioned earlier concerning the definition of “consumer officer” which I think may be important.

**HON CHIEF MINISTER:**

Can I in full satisfaction of his concern refer him to section 11 of the Bill, which says that the Minister may appoint by notice in the Gazette a consumer officer to administer the provisions of this Act, and the rest of the section then goes on. So the term is in fact defined in the Act. It is an office which is created in the Act.

**HON J J NETTO:**

I also gave notice in my letter that in clause 2, after the definition of ““regulated profession”” to insert another definition which is, ““a service” includes but is not limited to, a service with respect to immovable property, rights or obligations.”.

**HON G H LICUDI:**

I note the explanation given by the Chief Minister in relation to clause 11 and the reference to the appointment of a consumer officer. In fact, there is a reference to consumer officer before that at clause 10. Should we not, and we say this simply by way of suggestion, actually have in the definitions section a definition of consumer officer which would simply say, “a consumer officer is such person as is appointed by the Minister under section 11”?

**HON CHIEF MINISTER:**

Well, we could have that but it is not necessary. It is an office created by the Act, there is nothing....., one could have a definition that says, “consumer officer means the person appointed under section 11”. It is unnecessary. Of course, we could have it but the question is, is the Bill deficient without it? The answer is no, it is not deficient without it because it is an office created.....The fact that it comes before the section creating is not deficient, it means that whoever comes to that

term has to look forward for the explanation rather than having, theoretically if he had read it as a novel, having already read it in his xxxxx. I have seen it done both ways, certainly, the Government have brought legislation to the House drafted as the hon Member suggests, I think he will find that, for example, most of the legislation establishing the Agencies speak of “the Authority” meaning the agency established under section 3, and that is repeated in the definitions section. But if it is something the hon Member feels so strongly about it that he wants to propose the amendment, we do not feel obliged to resist him.

**HON G H LICUDI:**

We agree that it is not, strictly speaking, necessary. It is clear who the reference to the consumer officer is but we feel that it would improve the Bill if we have a specific reference. I will ask my Colleague the Hon Mr Bruzon to propose the amendment.

**HON C A BRUZON:**

I propose to amend the definitions section with the inclusion of a definition of “consumer officer”.

**HON CHIEF MINISTER:**

I will help him with the drafting. Perhaps he might like to move a motion that reads: ““consumer officer” means the person appointed under section 11(1) of the Act.”

**MR CHAIRMAN:**

I have a motion proposed by the Hon Charles Bruzon. In the definitions section, which is clause 2 of the Bill, ““consumer officer” means the person appointed under section 11 of the Act.” Do we need to take a vote or are we all agreed on that?

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

**Clauses 3 to 13** – were agreed to and stood part of the Bill.

**Clause 14**

**HON J J NETTO:**

In clause 14 for “the burden of proof shall be on” substitute for “a court may, where it considers appropriate, require”.

**HON J J BOSSANO:**

Can we have an explanation as to why the Minister wants to remove the present wording and replace it with these words? Presumably he knows why he wants to do it.

**HON CHIEF MINISTER:**

Yes, I am just trying to find the article in the Directive. I can only assume that it has been spotted as language that did not correlate too well. Article 12.

**HON J J BOSSANO:**

Article 12, it talks about the Member State conferring upon the courts powers enabling them to do what this does.

**HON CHIEF MINISTER:**

Yes and that is why the amendment leaves it to the court rather than makes it mandatory on the trader. It is just an attempt to make the section language more closely correspond to the obligation under the Directive. However, it would not be a mis-transposition to impose the higher duty on traders. In other

words, to impose the burden of proof. As section 14 is now drafted.....

**HON J J BOSSANO:**

There is no choice on the trader.

**HON CHIEF MINISTER:**

Yes, the burden of proof shall lie on the trader.

**HON J J BOSSANO:**

Absolutely.

**HON CHIEF MINISTER:**

That is a higher burden than the Directive requires. The Directive requires, in article 12.....

**HON J J BOSSANO:**

However, in preambular paragraph 21 it acknowledges that it is for national law to determine the burden of proof at the same time. It says, “while it is for national law to determine the burden of proof, it is appropriate”.

**HON CHIEF MINISTER:**

Sorry, which recital is he looking at?

**HON J J BOSSANO:**

It is 21. The final sentence which starts, “while it is for national law”.

**HON CHIEF MINISTER:**

“Whilst it is for national law to determine the burden of proof it is appropriate to enable courts and admit to require traders to produce evidence as to the accuracy of factual claims they have made”. Well it is the contest really between ..... Sorry, someone was just whispering in my ear by way of further illustration that article 12 of the Directive requires the Member States, it says “Member States shall confer upon the courts or administrative authorities power enabling them in civil or administrative proceedings (a) to require the trader to furnish evidence as to the accuracy of factual claims”. So, yes, further to what I said earlier, it would be a sufficient transposition of the Directive that it reads as the amendment provides, but it would not be a breach, it would not be a mis-transposition of the Directive if this House wanted, as the draftsman originally intended when he drafted the Bill, that it should actually be imposed without, in other words, the court should be deprived of that opportunity of not requiring it.

**HON G H LICUDI:**

Should this not be a matter of policy rather than consideration by the courts and empowering the courts? Is it not a matter of policy whether a trader should be required or should not be required to have the burden of proof? One thing is as set out in the Directive, requiring a trader to furnish evidence, that is not the same as discharging, necessarily, a legal burden of proof. It is a matter of policy whether this Parliament decides that the trader shall have the burden of proof or not.

**HON CHIEF MINISTER:**

Yes, of course it is, but the element of recital, 21, that was pointed out earlier meaning that it is for Member States to establish the standard of the burden of proof, the standard of proof is described there as being on the balance of probability. That is the required standard as opposed to beyond reasonable doubt or some other standard. The burden is on whom does it lie? Well, it clearly lies on the trader. That is not in doubt in either formulation. The question simply is, it is a narrower point even than those two. The question is, does the trader always have to prove it or does he only have to prove it when the court requires him to prove it? Now, the Directive says that the Member States shall leave that decision to the courts, in article 12. Member States shall confer upon the courts power enabling them to require the trader to furnish evidence as to the accuracy of factual claims. I am just a little bit reluctant, on the hoof so to speak, to make good my initial view that it would not be a mis-transposition to deprive the courts of the article 12 discretion.

**HON J J BOSSANO:**

I think the logic of this surely is that the intention is that the courts should have the power, on the basis that if there is no burden of proof to prove the facts of a trader and the courts do not have the power, then it cannot be obtained. It seems to me that the intention is that this is a minimum requirement. At the very least the courts should be able to require it, so Member States cannot get away, in my view, without one or the other. But if they do the higher one, it seems to me there is no need to do the lower one. It is very unusual for the Community to require people to give less strong protection than they want to. It is not an unreasonable thing to say to a trader, if he says something works then he should be able to prove that it does.

**HON CHIEF MINISTER:**

Yes, if the hon Members feel that..... the Government do not have any objection to leaving it, in other words to withdrawing the amendment. There is an ancillary issue that is raised as to whether, if we withdraw the amendment, this regime applies even when one is not before the court. In other words, even before an administrative officer because we are removing the reference to the courts. But I do not think that is a great problem either. Look, it is inconceivable that a trader should make a claim and that it should be for somebody else and not him to have the burden of proving the accuracy of what the trader says. In other words, it cannot be for the consumer to prove that the trader's claim was not accurate. I think we would be quite happy to withdraw that particular amendment.

**HON J J BOSSANO:**

I think we would be happy with the original one which seems to us a bit stronger protection.

**MR CHAIRMAN:**

Well, we can combine the two, unless the court otherwise orders.

**HON CHIEF MINISTER:**

The Chairman is determined to keep the lawyers at work.

**MR CHAIRMAN:**

Where do we stand on that?

**HON CHIEF MINISTER:**

I think we withdraw the amendment for now.

Clause 14, as originally drafted, stands part of the Bill.

**Clause 15**

**HON J J NETTO:**

In clause 15, for the words ““or the Consumer Protection from Unfair Trading Act”” each time it appears, substitute for ““or the Consumer Protection (Unfair Trading) Act 2008”.”

Clause 15, as amended, was agreed to and stood part of the Bill.

**Clause 16**

**HON J J NETTO:**

Yes, my last amendment in clause 16. For “Consumer Protection Unfair Trading Act” each time it appears, substitute for “Consumer Protection (Unfair Trading) Act 2008”.

Clause 16, as amended, was 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.

### **THIRD READING**

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

I have the honour to report that:

1. The Public Finance (Control and Audit) (Amendment) Bill 2008;
2. The Transport (Amendment) Bill 2008, with amendments;
3. The Crematoria Bill 2008, with amendments;
4. The Consumer Protection (Unfair Trading) Bill 2008, with amendments,

have been considered in Committee and agreed to, and I now move that they be read a third time and passed.

Question put.

The Public Finance (Control and Audit) (Amendment) Bill 2008;

The Transport (Amendment) Bill 2008;

The Crematoria Bill 2008;

The Consumer Protection (Unfair Trading) Bill 2008,

were agreed to and read a third time and passed.

### **ADJOURNMENT**

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

I have the honour to move that this House do now adjourn sine die.

Question put.

Agreed to.

The adjournment of the House was taken at 4.20 p.m. on Monday 3<sup>rd</sup> November 2008.



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

The Fifth Meeting of the Eleventh Parliament held in the Parliament Chamber on Wednesday 3<sup>rd</sup> December 2008, 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,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism  
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 18<sup>th</sup> September 2008, were taken as read, approved and signed by Mr Speaker.

**COMMUNICATIONS FROM THE CHAIR**

**MR SPEAKER:**

Before the Clerk calls the questions, I would like to make a statement on some of the questions which I had the opportunity to look at only last night. I was away from Gibraltar as the questions came in, I believe last Wednesday morning, so I have not had the opportunity to look at the questions and deal with them in accordance with the usual practice of either allowing or disallowing them. I have only seen the questions last night. I must make the point about a number of questions which were tabled by the Hon Fabian Picardo. These are Questions Nos. 1054 to 1060 in the Order Paper which I have seen. I have not

seen any further versions of that Order Paper. I believe I have the right questions, Mr Clerk?

**CLERK:**

Yes.

**MR SPEAKER:**

Now, in those questions, questions have been put in my view properly as far as the subject matter is concerned. However, there is repeated reference in those questions to the allegation that Mr Nigel Pardo and/or members of his family are involved in those companies named in those questions. Standing Order 17(1)(ii) provides that a question must not publish any name or statement not strictly necessary to make the question intelligible. From my reading of the question or the questions concerned, rather, the questions were perfectly intelligible to me by referring to the companies involved. The reference to the individual concerned, or allegedly concerned in these companies or members of his family, were not strictly necessary. Therefore, in exercise of my powers under Standing Order 17(1), of which I am told I shall be the sole judge, I rule those questions out of order. I will allow the questions to be put but for the purposes of the record the names of the persons involved, because the reference to their name is not strictly necessary to make the question intelligible, will be struck off. The reason why I have found it necessary to make this statement at this stage of proceedings is that publicity has been given to the questions concerned, and therefore it ought to be made clear from the outset that that is not a proper manner of proceeding with the asking of questions. The hon Member who asked the questions is very well versed in the rules and practices of this House, he surely knows. He may well rise to say that I allowed a question with a similar reference on a previous occasion. The fact that I did not disallow it then does not create a precedent of a manner which I am obliged to allow it indefinitely. There has not been a

ruling as such, it was just allowed but now I do make the ruling that henceforth any question that does not comply with Standing Order 17(1)(ii) will be disallowed.

**HON F R PICARDO:**

In making that ruling and referring to Standing Order 17(1)(ii), when referring to the name Mr Speaker interprets that rule to be the name of the individual not the name of the company, is that right Mr Speaker?

**MR SPEAKER:**

No, exactly, if one does not refer to the name of the company then it might make the question unintelligible, it might. But for the purpose of this series of questions, if there is no reference to the name of the company or the name of the individual it might make the question unintelligible. But to refer to the name of the individual alleged to be involved in those companies, in my view is not strictly necessary.

**HON F R PICARDO:**

In relation to Mr Speaker's suggestion that this is an allegation, he is disregarding the answer given in this House to Question No. 687 of 2008?

**MR SPEAKER:**

No, I am not disregarding it but I am not bound by the answers. It may be possible that the question suggested that the individuals concerned were involved in the companies, the Minister or Chief Minister may have replied implying that is the case. But that may not be the case due to error on either side, so I am not bound by the answers.

**HON F R PICARDO:**

I think it would be useful, and I am not for one moment challenging Mr Speaker's ruling, but I think it would be useful if Mr Speaker reviewed the answers given in this House in respect of Question No. 687. All I can say is that I am surprised that Mr Speaker has not sought to discuss this issue with me before making a ruling but I am quite happy to proceed as he may. I hear there is a cackle from the other side that finds it surprising that I should be surprised that Mr Speaker did not wish to discuss this with me. But, of course, Mr Speaker, we will have to accept your ruling and I would be grateful if you would indicate exactly how you wish me to ask the question and exactly how you should consider the question should be put so that I do not in any way offend Mr Speaker's ruling when it comes to asking a question. Which is a question which I think you will appreciate, whether or not carrying the name is a question which the Opposition considers to be of general public importance and which I do not interpret the ruling as preventing us from putting.

**HON CHIEF MINISTER:**

With respect, if I could express a view on this. As I understand Mr Speaker's ruling, it has nothing to do with his use of the word "allegation". In other words, I do not understand that Mr Speaker has ruled the question out of order because it is alleged to contain an allegation against anybody. As I understand the ruling, it is that there is a Standing Order that says, I do not remember the exact language, that one cannot name an individual in a question unless it is strictly necessary to make the question intelligible. The questions relate to contracts entered into between the Government and two named companies. It is therefore not strictly necessary, it is totally irrelevant to the question to put in brackets (being companies owned by Mr Nigel Pardo or members of his family). Those words are wholly unnecessary in a question which asks about contractual arrangements between the Government and two named

companies. As I understand Mr Speaker's ruling, it is not because there are allegations which may or may not be right, it is the fact that the inclusion of the name of the individual breaches Standing Orders of this House, because one cannot name an individual in a question unless it is strictly necessary to make the question intelligible and in Mr Speaker's view it is not strictly necessary to name this individual. The Government have no doubt recognising that Mr Nigel Pardo, and I think it was explicit from my answers in the last House, and/or members of his family have shareholding interests in either or both of these companies. That is not an issue as far as the Government are concerned, I have no doubt that he is, or has.

**HON F R PICARDO:**

I do not think there is a difference between us as to the reason or the way that we under Mr Speaker's ruling, but I think there is one more point to make before we let this matter rest. That is to say, that there is no allegation contained in any of these questions. Mr Speaker's use of the word "allegation", I think, was just alleged to be involved in the companies and that there is no other allegation in respect thereof. I think the Chief Minister has usefully clarified that that is not an allegation, that the Government recognise that as the party that is responsible for the contract who want to know who it is contracting with. Before I sit, it is my first opportunity to speak in this House today and I would just like to welcome Mr Speaker back to Gibraltar safe and sound. We were all concerned when you were away, despite the fact that he came back to make a ruling against me, it is very good to see him back in one piece.

**MR SPEAKER:**

Thank you for your kind words.

**HON J J BOSSANO:**

In the light of the Chief Minister's clarification of your thoughts, I would like to know whether in fact the nature of the decision that Mr Speaker announced affects the second reference to Mr Nigel Pardo but not the first? Because, in fact, I accept the argument that being companies in which Mr Nigel Pardo and/or his family have shareholdings, may not be necessary for the question but the first part is awarded to Mr Nigel Pardo or any company legally or beneficially owned by him, including but not limited to. Therefore, if there is another awarded contract to another company of which we do not know anything, then perhaps if Mr Speaker can tell me how we can phrase such questions in future by saying the person that may not be named, because if we do not know the name of the company and we do not know the name of the person, how do we get the Government to provide us with the information? So, I think that we would need to know that where we do not know the company, but we understand or we believe that it is a company in which there is a person that has a substantial shareholding, then it is perfectly legitimate to say awarded to Mr So and So through a company the name of which we do not know, I take it?

**MR SPEAKER:**

Well, the point I think I did mention in my earlier ruling is that it is usually often necessary to name someone, either an entity or a person. Where in the questions two entities have been named and then for good measure the question goes on to say, "being companies in which Mr So and So", that element in my view is not strictly necessary, it should not be allowed. But if a question says "companies" without naming companies, one has to make the question intelligible by referring to which companies one is referring, namely companies in which Mr So and So may or may not be involved. So, in answer to your question I hope I am reasonably clear, that there may be some questions where it is permissible. But I would not invite the Opposition to make it a habit, because it is very easy, I know the hon Members on both

sides, especially Members on this side, I am sure are very astute and capable of being able to phrase a question which would infringe Standing Order 17(1)(ii) by linking questions. In this case I accept it is not a deliberate one, but one can understand it is easy to get round a ruling by naming companies and saying "or companies in which", so I will be equally astute in looking out for the use of the word guardedly, "abuse".

**HON J J BOSSANO:**

If Mr Speaker looks over the last two years he will find that it is not a habit that I have indulged in. I am just trying to make sure what is your ruling, so that we do not put Mr Speaker in the position again of having to say the question is wrong and needs to be changed.

**MR SPEAKER:**

What I think, if they are named entities it is quite unnecessary to name the alleged or possible beneficial owners or controllers behind it, because the named entity makes the question intelligible and anyone interested, starting with the Ministers answering the question, can find out who it is all about, but if one is unable to name an entity then it is quite permissible to name, in the right circumstances, the persons behind the company. In answer to the point which the Hon Mr Picardo took about not having consulted him, as I say, when the questions came in last Wednesday I was on my way to a troubled part of the world and I am grateful for his kind remarks in welcoming me back. I must confess that I share his relief at being back safe and sound as well. I only saw the questions last night when I got in and I had to go through about 457, I am told in the media today. I had not counted the questions and it did strike me and I made notes as I went along that there were half a dozen questions which, in my view, it was quite unnecessary to name the persons concerned. There are other questions which I will be dealing with as and when we come along. I did not think it

was necessary to make a statement because they did not infringe the rule in this manner.

**HON F R PICARDO:**

Thank you very much for your clarification to the Leader of the Opposition. In that case, in Question Nos. 1054 and 1055 the name of this individual should remain because in that case.....

**MR SPEAKER:**

Perhaps in the second limb of the question.

**HON F R PICARDO:**

No, in the first two questions, just for the sake of clarification, the hon Gentleman when he answered our questions last time said that he could answer our questions about the contracts that had been granted by him or by the Government to these individuals within a particular period but he could not go back, and he said that if he were given notice of the same question in effect for the past, he would bring the list. So what I have done is, in effect, the same question as last time for the past which helps us identify.....

**MR SPEAKER:**

It refers to the answer to question so and so.

**HON F R PICARDO:**

No, no, that is right, but in relation to contracts previously granted not the contract list that was awarded and contracts

perhaps granted since the answer last time, that is why the individual is named there. In the others, the question names the individual simply because he was named in the earlier question, and in that case, we can get rid of the name without making the question unintelligible. But, of course, there might be other companies, not the companies which are these two companies which are also named, which this individual, or his family, or his family interests, may have used for earlier contracts and, therefore, the name of the individual remains relevant, in my view, for Question Nos. 1054 and 1055. Perhaps it is not something to decide now, it is further down the agenda, we can look at it in the adjournment.

**MR SPEAKER:**

I have not got the text in front of me, I looked at it on a USB stick that was sent on to me. I made notes as I went along.

**HON F R PICARDO:**

How modern.

**MR SPEAKER:**

One has to keep up with the modern times. But, again, for future reference, if there are questions of that nature it is equally possible to split them into two separate questions. There is no limit on the number of questions that are put, 457, one could put 557 questions if they need to but they could be in separate questions. But if I construe any unnecessary linkage and unnecessary naming then this ruling will be enforced. So he can have two or as many separate questions as he likes. Can we now get down to the proper questions?

## **ORAL ANSWERS TO QUESTIONS**

The House recessed at 1.17 p.m.

The House resumed at 3.10 p.m.

Oral Answers to Questions continued.

The House recessed at 5.45 p.m.

The House resumed at 6.05 p.m.

Oral Answers to Questions continued.

## **ADJOURNMENT**

### **HON J J HOLLIDAY:**

I have the honour to move that this House do now adjourn to Thursday 4<sup>th</sup> December 2008, at 10.00 a.m.

Question put.           Agreed to.

The adjournment of the House was taken at 7.12 p.m. on Wednesday 3<sup>rd</sup> December 2008.

## **THURSDAY 4<sup>TH</sup> DECEMBER 2008**

The House resumed at 10.00 a.m.

### **PRESENT:**

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

### **GOVERNMENT:**

The Hon J J Holliday – Minister for Enterprise, Development, Technology and Transport and Deputy Chief Minister

The Hon Lt-Col E M Britto OBE, ED - Minister for the Environment and Tourism

The Hon F J Vinet – Minister for Housing

The Hon J J Netto – Minister for Family, Youth and Community Affairs

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 P R Caruana QC - Chief Minister

The Hon Mrs Y Del Agua - Minister for Health and Civil Protection

### **IN ATTENDANCE:**

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

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

### **ADJOURNMENT**

#### **HON J J HOLLIDAY:**

I have the honour to move that this House do now adjourn to Friday 5<sup>th</sup> December 2008, at 9.30 a.m.

Question put.                      Agreed to.

The adjournment of the House was taken at 1.00 p.m. on Thursday 4<sup>th</sup> December 2008.

### **FRIDAY 5<sup>TH</sup> DECEMBER 2008**

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 Enterprise, Development,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism  
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

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

The House recessed at 1.10 p.m.

The House resumed at 1.20 p.m.

Oral Answers to Questions continued.

## **WRITTEN ANSWERS TO QUESTIONS.**

The Hon the Chief Minister laid on the Table the questions and answers numbered W71/2008 to W143/2008 inclusive.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE EDUCATION AND TRAINING (AMENDMENT) ACT 2008**

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

I have the honour to move that a Bill for an Act to amend the Education and Training Act for the purpose of transposing into the law of Gibraltar Article 10 of Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum applicants and Article 27 of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted; and for connected purposes, be read a first time.

Question put.                      Agreed to.

#### **ADJOURNMENT**

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

I have the honour to move that this House do now adjourn to Friday 9<sup>th</sup> January 2009, at 10.00 a.m.

Question put.                      Agreed to.

The adjournment of the House was taken at 2.10 p.m. on Friday 5<sup>th</sup> December 2008.

## **FRIDAY 9<sup>TH</sup> JANUARY 2009**

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,  
Technology and Transport and Deputy Chief Minister  
The Hon Lt-Col E M Britto OBE, ED - Minister for the  
Environment and Tourism  
The Hon F J Vinet – Minister for Housing  
The Hon J J Netto – Minister for Family, Youth and Community  
Affairs  
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 Dr J J Garcia



The Hon G H Licudi  
The Hon C A Bruzon  
The Hon N F Costa

**ABSENT:**

The Hon Mrs Y Del Agua - Minister for Health and Civil  
Protection

The Hon F R Picardo  
The Hon S E Linares

**IN ATTENDANCE:**

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

**SUSPENSION OF STANDING ORDERS**

**HON CHIEF MINISTER:**

Can I first of all wish the House and everyone who works in it a happy and prosperous new year, and beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of Income Tax legislation on the table.

Question put.           Agreed to.

**DOCUMENTS LAID**

**HON CHIEF MINISTER:**

I have the honour to lay on the table, firstly, the Income Tax (Allowances, Deductions and Exemptions) (Amendment) (No. 2)

Rules 2008, and in the second place, the Rates of Tax (Amendment) (No. 2) Rules 2008.

Ordered to lie.

**BILLS**

**FIRST AND SECOND READINGS**

**THE EDUCATION & TRAINING (AMENDMENT) ACT 2008**

**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 two things. Clause 2(2) makes certain amendments consequential on the Immigration Control (Amendment) Act 2008, which amongst other things, changed the name of the Immigration Control Act to the Immigration, Asylum and Refugee Act. Clauses 2(3) and 2(4) of this Bill, transpose Article 10 of Council Directive 2003/9/EC of 27 January 2003, laying down minimum standards for the reception of asylum applicants, and also Article 27 of Council Directive 2004/83/EC of 29 April 2004, on minimum standards for the qualification and status of third country nationals or stateless persons as refugees, or as persons who otherwise need international protection, and the content of the protection granted. These articles require states to provide access to the education system to child asylum seekers, and if an asylum seeker enters with a dependant child, then to that dependant child as well. They also require states to provide access to the education system to children who have been granted refugee or subsidiary protection status, or who entered the state with a person who has been granted refugee or subsidiary protection status. In other words, the Bill amends the eligibility to free state

education provisions of the Education and Training Act, to incorporate into that Act the requirements that we have under these Articles of these Directives, for us to provide free state education to children in the circumstances that I have just described. 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.

Question put.                    Agreed to.

#### **THE FOSTERING (AMENDMENT) ACT 2008**

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

I have the honour to move that a Bill for an Act to amend the Fostering Act 2002 for the purpose of transposing into the law of Gibraltar Article 19 of Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum applicants and Article 30 of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted into the law of Gibraltar, 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 much in the same vein as the previous Bill, in that it introduces amendments to our laws in order to deliver services that these two same Directives require our law to provide in respect of asylum seekers, stateless persons and persons in need of international protection. In this case, it is a requirement that our fostering legislation should be open to them too. Therefore those Directive articles require that the state must be able to place unaccompanied child asylum seekers, and unaccompanied children who have been granted refugee or subsidiary protection status, into foster care. The previous Bill related to access to the education system. Persons are considered by the Directives to be children until they are 18 years old. The problem here is that our Fostering Act restricts the fostering in Gibraltar to 16 years old. So we have legislation that is limited to age 16, yet these Directives require us to provide fostering services to these children aged 17 as well. In other words, until they are 18 years old. So, the amendment brought about by the Bill, is to add..... Clause 2 of the Bill thus introduces the minor amendment required, a minor amendment to our existing Fostering Act 2002, to enable the court to make an order that a child is in need of care, in respect of children under the age of 18 who fall into the definition of the Directives. Namely, who are unaccompanied minors as defined in the Asylum Regulations 2008. In other words, the Bill does not extend the Fostering Act for all domestic purposes to age 18. It simply says, in respect of people who are qualified under the Asylum Regulations, in other words, the people who the European legislation requires us to be able to put out to fostering, then those people are defined as children in care for the purposes of section 2 and would, therefore, consequentially, be eligible to be fostered. The concept of placing children under fostering care aged above 16 is not really compatible with the scheme of the Act for domestic purposes, nor for the culture of the way people aged 16 and over tend to be treated in this

community. Of course, there is no reason other than that, why 18 could not have been the fostering age from the outset in our Fostering Act. But, I think, consistently with what happens elsewhere, it was not and the Government have not taken the policy decision to increase the fostering age for everybody, simply because we are obliged under European law to increase it for a narrow definition of people. But that could have been a way forward. We could have just said that fostering children in care includes anybody up to the age of 18. Children in need of care can be, for the purposes of our Fostering Act generally, anybody up to the age of 18. It is not really in sync with the way our social legislation is framed. Not just in respect of fostering, but more widely in respect of the age groups of people in respect of whom courts can make such care orders. I commend the Bill to the House.

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

#### **HON G H LICUDI:**

Just one matter which arises from the last comments that the Chief Minister has mentioned, which is that the Bill does not extend the Fostering Act for local and domestic purposes, and that same policy decision that the Government have taken not to extend the age for Gibraltarian or local children, which are subject to fostering from 16 to 18. In taking that decision, I wonder whether the Chief Minister could explain or say whether the Government have any concerns at all that we might have two different regimes for fostering in Gibraltar, applying to different children depending on the status of those children. One for refugees and another for local children. Do the Government have any concerns at all about possible inconsistencies and the fact that some social services will be amenable to some children who are 16 and 17, but not to others? Is this matter of any concern to the Government?

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

Well, I chose my words carefully, I did not say that the Government had taken the policy decision not to change. I said that the Government had not taken the policy decision to change, which is not exactly the same thing. In other words, we have not taken the decision to change, in the sense that we do not think that this is the appropriate time or place to review. But as the hon Member knows, the Government are at a very advanced stage of pre-legislative work on the Children's Act, and depending on the final decision that is made in respect of the definition of "children" for the purposes generally of the protection of children under the Children's Act, this matter may come up for review too. But ahead of the Children's Act and the decisions made in the context of that wider piece of child protection legislation, it was not thought appropriate to even consider that wider remit here. Just to answer the question about whether the Government have any concerns about sort of a two tier service, I think it needs to be borne in mind that, of course, these are people that almost certainly would have no family support structure in Gibraltar. These are asylum seekers, stateless persons, persons in need of international protection, they are usually here alone in the world, so to speak. That it is very different to the usual scenario affecting children that need to be subjected to fostering care in Gibraltar, who almost always have some sort, often inadequate, but certainly some source of nuclear or wider family support structure, which is not available to these people. I mean, that is a distinction which I think would mitigate any legitimate concerns that might otherwise exist about the existence of a two tier service.

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.

Question put.                      Agreed to.

**THE IMMIGRATION, ASYLUM AND REFUGEE  
(AMENDMENT) ACT 2008**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to amend the Immigration, Asylum and Refugee Act, 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, as heard, the Bill amends the principal Act dealing in Gibraltar with immigration, asylum and refugees, namely the Act of that name. The Bill does two things. Firstly, it gives authority to the Civil Status and Registration Office to cancel entry permits and permits of residence issued under the Immigration, Asylum and Refugee Act. Secondly, it makes amendments to that principal Act, consequent on the publication in October of Gibraltar's Asylum Regulations 2008, which transpose the Council Directives that we have been discussing in the previous bits of legislation, Council Directives 2003/9/EC of 27 January 2003, laying down minimum standards for the reception of asylum applicants, and Council Directive 2004/83/EC of 29 April 2004, on minimum standards for the qualification and status of third country nationals or stateless

persons, as refugees or as persons who otherwise need international protection, and the content of the protection granted. In further detail, the Bill provides as follows. Clause 2(2) of the Bill, introduces a new definition of "residence permit". A residence permit is a permit granted to persons who are granted refugee or subsidiary protection status, under the Asylum Regulations 2008. It is thus different from a permit of residence, which grants residence rights under Gibraltar immigration law, and is the one that we are all more used to talking about. Clause 2(3) of the Bill, streamlines the relationship between the Asylum Regulations and the Immigration, Asylum and Refugee Act itself. It sets out those provisions of the Act which will not apply to persons who are covered by the Asylum Regulations. In other words, the Asylum Regulations which require one to deal with asylum seekers and other persons defined in it in a certain way, disentitles us from applying certain provisions of our standard vanilla flavour immigration legislation to those persons, because those persons are given particular rights by the Asylum Regulations. So what clause 2(3) does is that it says which of the normal provisions of our immigration law will not apply to people who are beneficiaries under the Asylum Regulations. Clauses 2(4) and 2(5), deal with immigration law rather than asylum law. Clause 2(4) provides that the Civil Status and Registration Office will have the power to cancel entry permits and permits of residence issued under the Immigration, Asylum and Refugee Act. This is a change from the current law which provides that this power is held by the Principal Immigration Officer and the Governor respectively. Clause 2(5) simply tidies up the provisions in existing section 21, as a result of the changes introduced by clause 2(4). Clauses 2(6) and 2(7), clarify sections 21 to 23 to make clear that the provisions do not apply to residence permits issued under the Asylum Regulations. Clause 2(8) clarifies the definition of "asylum claimant" in section 63(5), to ensure that it includes a claimant under the Asylum Regulations of 2008. This Bill streamlines Gibraltar's immigration and asylum law, and provides that power to cancel entry permits and permits of residence, vests in the Civil Status and Registration Office of the Gibraltar Government. 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.

Question put.            Agreed to.

#### **THE TAXATION (SAVINGS INCOME) (AMENDMENT) (BULGARIA AND ROMANIA) ACT 2008**

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

I have the honour to move that a Bill for an Act to transpose into the law of Gibraltar paragraph 8 of the Annex to Council Directive 2006/98/EC of 20 November 2006 adapting certain Directives in the field of taxation by reason of the accession of Bulgaria and Romania, 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, and indeed the next one, deal with amendments to existing bits of Gibraltar income tax legislation that are driven by EU requirements, and they therefore simply

modify those Bills to reflect the accession of Bulgaria and Romania into the European Union. This Bill amends the Income Tax Act itself. Firstly, paragraph 3 of the Annex to Directive 2006/98/EC and secondly, paragraph 9 of the Annex to Directive 2006/98/EC. The first one concerned amendments to the Directive 77/799/EEC and paragraph 9 refers to amendments to Directive 2003/49/EC. Taking each of those two requirements separately, so that the hon Members, just in a nutshell, can follow what the changes are. Clause 2(a) of the Bill transposes the amendments to Directive 77/799/EEC of 19 December 1977, usually known as the Mutual Assistance Directive, concerning mutual assistance by competent authorities of the Member States in the field of direct taxation. It does so, this Bill, by amending the section of the Income Tax Act, by which we implemented the Mutual Assistance Directive, namely section 4A of the Income Tax Act, and specifically sub-clause (7) thereof, to refer to Directive 77/799/EEC "as amended from time to time". The amendments to Directive 77/799/EEC, which have been effected by paragraph 3 of the Annex to the Directives, and therefore which are now introduced by this Bill into the Act, are as follows. Firstly, by including in the list of taxes in respect of which Member States are to exchange information, the relevant Bulgarian and Romania taxes. There is a list of each Member State's taxes which are captured by the Directive, and therefore, by this provision of our Income Tax Act. Two new Member States joined the Community, therefore it is necessary to add to the list their relevant taxes. Secondly, including in the list of competent authorities the relevant Bulgarian and Romanian competent authorities. Equally there is a list of competent authorities, two new Member States arrived, their relevant competent authority has got to be listed together with the others, consequential upon their accession to the Community. Members that have been in this House for more than a certain period of time, will be familiar with the regularity of this sort of legislation that adds to the list following accession of new Member States. Clause 2(b) and 2(c) transpose the amendments to Directive 2003/49/EC, on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States.

Clause 2(b) amends Part 1 Schedule 2 to the Income Tax Act, which contains a list of taxes to which companies may be subject, in order to insert the relevant Bulgarian and Romanian taxes. Clause 2(c) amends Part 2 Schedule 2 of the Income Tax Act, which contains a list of the companies included within the definition of companies of a Member State, set out in section 47A, in order to insert the relevant Bulgarian and Romanian in order to.....

Can we just be clear that the Bill that we are dealing with at the moment, is Bill 21/08, whereas I am actually speaking to the next Bill which is Bill 22/08, they are just reversed in the order in which my speaking note has been prepared. In other words, let me just put that into context. There is a Bill which amends the Mutual Assistance Directive provisions, which are the ones that I have been speaking to, but that is actually the next Bill. The Bill that I should be speaking to, with the House's permission I will reverse the order, I suppose we should recall the legislation, is the one that affects separate provisions relating to matters that I will speak to in a moment. So I am actually speaking to Bill 22/08 and I wonder whether Mr Speaker just wants me to abandon, restart my speech with the right one, and risk having to hear me again in a few moments time, or whether we can just now reread the name of the Bill that I am actually speaking to. I leave it entirely in Mr Speaker's hands.

**MR SPEAKER:**

Well, the view I took was that the Chief Minister did mention, in passing, that the next Bill that was going to come along, dealing with paragraphs 3 and 9, and I thought the Chief Minister was putting Bill 21/08 in context by previewing what was going to come. I take it that the preview was to come and then, perhaps, the next Bill would be shorter.

**HON CHIEF MINISTER:**

Alright yes. The other Bill deals with another piece of European Union inspired taxation provision, which has found its way into our legislation, but a different Act, not the Income Tax Act, but the Taxation (Savings Income) Act, which is what the legislation to which we implemented the so-called Taxation of Savings Directive, by which there has to be spontaneous provision of information between the tax authorities of Member States. That Act, the effect of Bill 21/08, the one that I should be speaking to but have not yet started speaking to, and am about to start speaking to, that Bill, again consequent on the accession of Bulgaria and Romania, amends the Taxation (Savings Income) Act to add the competent authorities of the Member States in question, by adding the related entities acting as a public authority, or whose role is recognised by international treaty for the purposes of section 12(4)(a) of the Act. In other words, it adds to the list, first of all the name of the Member State and then the entity which is deemed to be the related entity acting as a public authority, or whose role is recognised by international treaty, for the purposes of that section of the Act. So two Acts, two Bills, each amending a different Gibraltar piece of legislation relating to taxation, by simply adding the name of a Member State, in the one case it is relevant taxes, in the other Bill it is relevant competent authorities, to those things in relation to all the other Member States that our legislation already lists. So with apologies to the House for that mixing up of the order of my speaking notes, I commend Bill 21/08 to the House.

**MR SPEAKER:**

The Chief Minister will not tell us how the Bulgarian entity is pronounced?

**HON CHIEF MINISTER:**

I have been provoked as previous Chief Ministers have been provoked by previous Speakers. I think the last occasion was on the case of the accession of Finland. I have no intention of trying to educate the House as to how that might be pronounced, or even spelt, which raises an interesting question.

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.

Question put.                      Agreed to.

**THE INCOME TAX (AMENDMENT) (BULGARIA AND ROMANIA) ACT 2008**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to transpose into the law of Gibraltar paragraphs 3 and 9 of the Annex to Council Directive 2006/98/EC of 20 November 2006 adapting certain Directives in the field of taxation by reason of the accession of Bulgaria and Romania, 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 debate on the previous Bill, I explained to the hon Members what this Bill does in the context of the other, and therefore I will not take the House's further time by repeating it, just to point out to the House that this is the Bill that deals with the amendment to section 4 of the Income Tax Act itself, by adding the taxes to which section 4 of the Income Tax Act, the Mutual Assistance Directive, applies.

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

Question put.                      Agreed to.

**HON CHIEF MINISTER:**

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today, if all hon Members agree.

Question put.                      Agreed to.

**THE LIMITED LIABILITY PARTNERSHIPS ACT 2008**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to make provision for limited liability partnerships, 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 House will have noticed that unusually this Bill contains a very full Explanatory Memorandum, and I cannot help thinking that somebody has inadvertently published my speaking note as the Explanatory Memorandum. Still, that is all very useful public information but I think that does not relieve me of the obligation to say something about it, for the purposes of Hansard, in this House.

The Bill provides for the creation of a new form of legal entity known as, perhaps I should add before I start, that this is a piece of legislation that has been recommended to the Government by the Finance Centre itself, and therefore, it is an example of how the Government and the Finance Centre can work in partnership very often, as I keep on saying in my meetings with the Finance Centre, very often the industry itself is best placed to do the brainstorming about particular products that it believes might be useful, as an additional string to the bow of the Finance Centre and this House's role is best to facilitate it. This is a prime example of that in action. The Bill provides, then, as I say, for the creation of a new form of legal entity in Gibraltar, known as a limited liability partnership. Which is all very confusing because then the Bill goes on to say that it is not a partnership at all. Anyway, limited liability partnerships will enable two or more persons to associate for the carrying out of lawful business with limited liability. The Bill follows legislation similar to that enacted in the United Kingdom in 2001, and is in conceptual form, substantially in the same form. The Bill is essentially framework legislation, providing for essential elements such as the creation of the new form of legal entity, incorporation requirements, legal status, membership, taxation status and liability of its members. Regulations will be made under the enabling section to make more detailed provisions, including in areas such as making available for public inspection of information about limited liability partnerships, including their accounts and their solvency

and things of that sort. More particularly, clause 1 provides that the Bill should be brought into operation by one or more notices made by the Minister with responsibility for finance, with clause 2, as usual, defining various terms used throughout the Bill. Clause 3 creates the limited liability partnership as a legal person in its own right, formed as a body corporate with unlimited capacity capable of undertaking the full range of business activities which a partnership could undertake. Even though clause 3 provides a legal liability partnership with distinct legal personality from that of its members, the members of a limited liability partnership may be liable to contribute to its assets if it is wound up. Clause 4 sets out the conditions which must be met for a limited liability partnership to be incorporated. To form such a partnership there must be at the outset at least two people who are associated for the carrying on of a lawful business with a view to profit, and who subscribe their names to a document called an incorporation document. The incorporation document must be delivered to the Registrar. That is to say, the Registrar of Companies who will also be the registrar of limited liability partnerships. A statement must also be delivered to that Registrar, to the effect that there has been compliance with the requirements that at least two persons associated for the carrying on of lawful business with a view to profit, have so subscribed their names to the incorporation document. A statement must be made by a subscriber to the incorporation document or a barrister or solicitor engaged in the formation of a limited liability partnership. The incorporation document must contain various items of information. An offence is committed if a person makes a statement under clause 4 that he knows to be false, or does not believe it to be true. Clause 5 provides that once the Registrar receives the incorporation document, he shall retain and register it. Once the document has been registered, the Registrar issues a certificate that the limited liability partnership is incorporated by the name specified in the incorporation document, further being conclusive evidence from the Registrar that the requirements have been complied with. Clause 6 provides for the membership. The members of a limited liability partnership are those persons who sign the incorporation document and any other person, post



incorporation, who becomes a member by agreement with the existing xxxxxx. Persons cease to be members by death, dissolution or following any agreement with the other members of the limited liability partnership, or failing a member falling within one of the circumstances by giving reasonable notice to the other members. In normal circumstances, a member of a limited liability partnership will not be regarded as an employee of the entity. Clause 7 provides for the relationship of members of a limited liability partnership between each other, and as between them and the limited liability partnership, to be governed by the provisions of any agreement between the members themselves. The Bill does not require an agreement to be entered into between the members, and there is no requirement to publish it. Instead of a limited liability partnership agreement being in place between the members, a number of default provisions will apply as may be provided by regulation. In other words, they can have an agreement between them, if they have not, default provisions which will be provided by regulations will apply. Under clause 8, members are regarded as agents of the limited liability partnership and, therefore, to represent and act on behalf of the limited liability partnership in its business. A limited liability partnership is not, however, bound by the actions of a member, where that member has no authority to act for the partnership, and the person dealing with the member is aware of this, or does not know or believe that the member was in fact a member of the limited liability partnership. Transactions with a person who is no longer a member of that partnership are still xxxxxx transaction with the partnership, unless the other person has been told that that ex partner is no longer a member, or the Registrar has received a notice to that effect. Clause 8 also ensures that where a member of a limited liability partnership is liable to a person, other than another member of the partnership, for wrongful act or omission in the course of business of the partnership or with its authority, the partnership will be liable to the same extent as the member. Clause 9 provides for the situation where a person ceases to be a member of the partnership, or his interest in the partnership is transferred to another person. A former member, the member's personal representatives, the members trustee in

bankruptcy, or liquidator, or trustee under deed for the benefit of his creditors or assignee, may not interfere with the management or administration of the limited liability partnership, but may receive any amount to which they may be entitled. The role of designated members is generally to perform the administrative and filing duties of the partnership. However, the regulations will place on them tasks beyond the mere administrative, and in whose performance they will be representing all the members of the partnership, for example, in signing its accounts. Clause 10 provides that where the incorporation document specifies that certain members are to be the designated members, they will be the designated members on incorporation. Other members may become designated members by agreement with the members. A member may cease to be a designated member by agreement with the other members. The Bill requires there to be at least two designated members, and provides that if no member or only one is designated, then all members are regarded as designated members. Under clause 11, membership changes are required to be notified to the Registrar, and there are criminal penalties if the partnership or the partnership's designated members, breach the clause. Under clause 12, the profits of the business of a limited liability partnership will be taxed as if the business were carried on by the partners in partnership, rather than as a body corporate. In other words, the individual taxation rules apply and not the company taxation rules, making the limited liability partnership fiscally transparent, with no local corporate tax exposure. The taxation clauses in the Bill are expressed in broad terms, so that the existing rules for partnerships and partners imposed by the Income Tax Act, will in general apply simply to the limited liability partnerships and the members of the limited liability partnership partners, which are carrying on business as if these were partnerships and partners respectively, and not company and shareholders. The limited liability partnership status continues even if the limited liability partnership no longer carries on a business with a view to profit, so long as the cessation is temporary, or during a period of winding-up following a permanent cessation. There are, however, special rules where a court orders that a winding-up is

being unreasonably prolonged, or on the appointment of a liquidator, or the making of a winding-up order by the court. Clause 13 provides for relief from stamp duty on an instrument transferring property from a person to a newly incorporated limited liability partnership in connection with its incorporation, subject to a time limit of one year from incorporation, and subject to specified conditions being satisfied. In other words, that it is existing partnership property being transferred to a limited liability partnership. Clause 14 allows the Minister with responsibility for finance to make regulations, applying or incorporating the law relating to corporations, companies and partnerships, with appropriate modifications to limited liability partnerships. Clause 15 enables the Minister with responsibility for finance to have the power to make regulations. Finally, in respect of the detail of the Bill, the Schedule to the Bill imposes obligations with respect to the names and registered offices of limited liability partnerships. Every limited liability partnership must include at the end of its name, either the words "limited liability partnership" or a specified abbreviation of those words. There are restrictions on the names which a limited liability partnership may use, and provisions are made with respect to a change of name. The registered office of a Gibraltar registered limited liability partnership must be in Gibraltar. If a limited liability partnership wishes to change its registered office, it must give notice in an approved form to the Registrar.

Mr Speaker, this is a model that is in use in other jurisdictions, mainly used as a form of incorporated vehicle for professionals to carry on in their partnership, but it is not limited to that. It is a curious hybrid between a partnership and a company. In some respects the same as a company, in some respects specifically not. In some respects the same as a partnership and in some respects particularly not. So, for example, although their title is "limited liability partnerships", the law on partnerships does not apply to them, and the general body of law that applies to them, are the body with modifications that apply to companies. Notwithstanding that, for the purposes of taxation, they are not deemed to be companies and shareholders but a partnership and partners. So, in a sense, some elements and

characteristics are drawn from companies, some elements and characteristics are drawn from the laws of partnership and the status of partnership, there is a mix and a match so they are treated as partnerships for some purposes, treated as companies for other purposes, but they are a third type of vehicle. They are neither a partnership nor a company they are a third, new and different form of legal entity, statutory entity, known as a limited liability partnership. I commend the Bill to the House.

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

#### **HON G H LICUDI:**

Mr Speaker, this is one of those increasingly rare pieces of legislation which is purely locally driven, and which allows debates or even disagreement on the principles or the terms of the legislation. I am glad to say that in the case of this Bill there is no disagreement as to the principal xxxxxx of the terms, subject to some clarification which we will be seeking, myself and the Leader of the Opposition, in respect of some aspects of this legislation. We, therefore, will be supporting this Bill and we welcome the introduction of this legislation to the body of the professional armoury of those who do business in Gibraltar. The Chief Minister has indicated that this is something that was recommended by the Finance Centre Council. We are aware that this is legislation that has been mooted in professional circles for a considerable period of time, and we are also aware of the involvement of professionals in discussions and consultation, and we know that this is a piece of legislation which is keenly anticipated in professional circles. As the Chief Minister has indicated, similar legislation was introduced in the United Kingdom in 2001, and there has been a move, particularly in the United Kingdom and other jurisdictions, by partnerships and professionals towards the concept of the legal entity that is created by this legislation, the limited liability partnership. That seems to be the trend, whether that will

become the practice in Gibraltar remains to be seen. But it is certainly a good thing that the legislation is in place, so that those who wish and decide to become a limited liability partnership, or to establish one as the entity from which the professionals will provide services to clients, will be able to do so. There are a couple of matters which I would simply ask for clarification on in respect of the specific terms of the Bill. The Chief Minister referred to section 1 and said that the Bill is to be brought into operation by one or more notices made by the Minister with responsibility for finance. That is what his speaking notes and the Explanatory Memorandum actually state. In clause 1, the responsibility is actually given to the Government, not to any specific Minister, and I would simply ask the Chief Minister to take note of that and whether anything needs to be changed. It also provides for different days, as is common, to be appointed for different provisions. We would simply ask for clarification as to whether there is currently any intention of giving effect to any particular provision in advance of any other. One would have thought that this is a composite piece of legislation and it requires one date for the whole of the introduction. But if the Government have any different thinking on that, we would welcome that information. As regards the dates of the commencement of this legislation, we would ask whether the Government have any particular dates in mind. Is this something that is going to be advertised in the Gazette next week, or is there any reason why the Government may delay or decide not to publish the commencement date immediately? Linked to that, possibly linked to that, is the question of regulations. One of the possibilities under this Bill, as the Chief Minister has remarked, is for default provisions to be introduced by regulations in the absence of specific agreements between the members of the limited liability partnership. Is this something that the Government already have in draft form, and is it the Government's intention to publish these default provisions immediately, or simply to wait and see what happens and have regard to the practice and whether it is in fact needed in the future? The regulations also, paragraph 15 of the Bill, provides a general power to introduce regulations, including the imposition of fees, and we would welcome the Chief Minister's

comments on whether these have now been discussed or agreed with the Finance Centre generally, and whether these are now prepared in draft form, the regulations which will compliment this legislation. As I have said, this is a piece of legislation which is awaited by the Finance Centre professionals and we will support the Bill.

**HON J J BOSSANO:**

Mr Speaker, I would like clarification, rather confirmation of a couple of questions to which I assume the answer is yes, but I would like it confirmed. One is, the fact that people in the partnership are not deemed to be employed by the partnership, presumably means that when they register, they register as self-employed and are treated as self-employed. The second thing, in terms of the taxation, given that the taxation is in the hands of the partners and not in the hands of a corporate limited partnership entity, does it mean that, in fact, the profits made by the limited partnership are taxed, even if they are not distributed, which seems to be the implication? Secondly, does it also mean that unlike a limited company, it is not possible to carry forward losses? If the partnership is trading as a business and makes a loss, the partners are not taxed because there is nothing there for them to be taxed on, but in a normal company, the subsequent years' profits will be taxed at a lower amount, because they would be able to offset preceding year losses. Is that something that applies here or does not apply?

**HON CHIEF MINISTER:**

Dealing with the first points first, I too have noted now the point that the hon Member first made that the commencement is not for the Minister of finance, but indeed for the Government. Whether that turns out to be a distinction without a difference, I leave to his imagination, but yes, theoretically that is right, there is a distinction. He is right in pointing out that it is the Government that commences and not the Minister. The answer

to his second point is that I think he is correct. Insofar as I am aware, no one has ever suggested to me that there is any need for the commencement of this Bill to be staggered in the context of different sections and different dates. Therefore, unless there is some issue out there that I have not been briefed on, my understanding is that it will all be commenced, lock, stock and barrel, the Act that is, on the same day and that there is no intention of which I am aware not to do that. As to the date of commencement of the Bill, the situation is slightly less clear. I am not aware that the regulations are ready for promulgation, nor am I aware whether it is possible to commence this Act without the regulations already being in place. In other words, there are certain provisions of this Bill which require things which assume that things are in place which are going to be done by regulation. I do not think this regime is useable before those regulations are ready. So, I suspect that the commencement will have to await the promulgation of the regulations, but I cannot with the present state of my knowledge and information, tell the hon Member when that will be because I do not know what, if any, the state of preparation of those regulations might be as we speak. If, of course, if they can be, if it makes sense or, in other words, if it is not a nonsense to initiate this Act, when it becomes one, absent those regulations, then there is no reason why the commencement of the Act needs to be delayed. In other words, there is no policy issue, as far as the Government are concerned, on commencement and we would want to get this up and running just as soon as possible. Can I just add to what I said in opening and to what the hon Member said in his address? Namely, the use of this by professionals locally, that is the principal use to which these have been put in other jurisdictions. But in jurisdictions like Gibraltar, they are also likely to be used by investors, in terms of structured vehicles for foreign investment, as joint venture investment structures. In other words, the obvious use of these things is a form of semi incorporation. It is, in fact, a body corporate although not a company, by people who presently have to carry on legal practice as partners, which exposes them and all their assets to the debts and liabilities of the firm. This is a very useful structure for such professional, and that is the use

to which it has been principally put in jurisdictions like the United Kingdom and others. But in jurisdictions like Gibraltar, where we provide the services structuring global international investments, it is also very useful, as I am sure the hon Member, or those of his partners that deal with such matters would know, as vehicles for international investments, and that takes me conveniently to some of the points made by the Leader of the Opposition.

The Leader of the Opposition said “employees”. Of course, ordinary employees of the legal limited liability partnership are, of course, employees. The people who are not employees are the members of the partnership themselves. In other words, what would be called “partners” if this were a normal partnership. So, if they are not partners any more, but if a legal partnership, the lawyers who are partners would presumably become members of the limited liability partnership, if they went to limited liability partnership, they would not be employees and they would therefore be self-employed, in the context made by the hon Member. But lawyers who are not partners, and other employees of the firm, would be employees in the normal sense of the word. The hon Member is correct, for all taxation purposes these are a group of individuals and not a company. Therefore, all the law applicable to the taxation of individuals applies, and none of the law applicable to companies applies, including the taxation of undistributed profit and the inability to carry losses forward. I would just make a small caveat to that, which I think is just to alert the hon Member not to assume that limited liability partnerships can only be formed by individuals. One could have a limited liability partnership comprising two or more companies as its members, and that is one of the uses to which I suspect it is going to be put, as a form of joint venture vehicle between a number of companies co-investing in a project. Of course, if that happens then the members are not individuals, the members of the limited liability partnership are companies who then are taxed in accordance with company law, because that is what they are, companies albeit members of the limited liability partnership too. So, I commend the Bill to the House.

Question put.                      Agreed to.

The Bill was read a second time.

**HON CHIEF MINISTER:**

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today, if all hon Members agree.

Question put.                      Agreed to.

**THE EUROPEAN PARLIAMENTARY ELECTIONS  
(AMENDMENT) ACT 2008**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Act to amend the European Parliamentary Elections Act 2004, be read a first time.

Question put.                      Agreed to.

**SECOND READING**

**HON CHIEF MINISTER:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is preparatory to the forthcoming European Parliamentary Elections. As the hon Members will know, this House has legislated in the past the European Parliamentary Elections Act, which is the principal legislation in Gibraltar regulating Gibraltar's participation in European Parliamentary Elections, which occurred for the first time in 2004 here. Gibraltar, as the hon Members all very well know, is part of the combined UK Southwest Region and Gibraltar. There is a requirement that there should be no substantive difference

between the electoral rules, the statutory provisions relating, governing a European Parliamentary Election, in the UK part and the Gibraltar parts of the combined constituency. Obviously, as we said at the time of the original Act, it would be quite wrong for voters in the same constituency voting for the same candidate in the same elections to the same parliament, to each be operating under different election rules and election legislation. So the UK and Gibraltar Governments work very closely, with the support of the Electoral Commission in the UK and Gibraltar's authority for the administration of elections, the Clerk of the House usually, to ensure that the Gibraltar legislation follows the UK legislation in that regard, and a lot of consultation between the two taking place. The European Parliamentary Elections Act 2004 made provision for Gibraltar's participation in European Parliamentary Elections, and there are two principal aspects to this legislation. The registration of electors for European Elections and the regulation of political broadcasts, that is what the original Act mainly dealt with. There are bits of the law that apply to the Gibraltar bit of the constituency which is made in Gibraltar, and there are bits of the law that apply to the Gibraltar bit which is in UK law, as the hon Members will also recall. This Bill introduces a number of changes that need to be made to Schedule 1 of our European Parliamentary Elections Act, in relation to the registration of electors, by introducing provisions for anonymous registration and late registration in Gibraltar. These changes were introduced in the English part of the combined Southwest Region and Gibraltar constituency, by the English, or rather by the UK Electoral Administration Act 2006. The provisions in the Bill amending the Schedule to the Act, with regard to the alteration of the Register of Electors for a European Election, paragraphs 12 and 13, now provide for late registration. Further provisions are made for applications for registration as contained in paragraph 25 of the Schedule, for objections to registration, paragraph 26 of the Schedule, and for the procedure to determine applications for registration and objections to registration, paragraphs 28 and 30 of the Schedule. They take into account similar changes in the UK Act and the new provisions for so-called anonymous registration.

Anonymous registration is provided for in detail by the amendments to paragraph 40 of the Schedule. A new paragraph 60 to the Schedule imposes a duty on the Registration Officer, that is the Clerk of the Parliament, to take all the necessary steps to maintain the Register of Electors for European Elections. A new Part 5 is then added to the Schedule which contains the detailed provisions for anonymous registration. A person wishing to register anonymously must satisfy the so-called safety test. Of course, let us be clear, anonymous registration means that one's name and address does not appear in the register. What appears in the register is one's electoral number and the letter "N". But of course, the Clerk as the administrator of the Register, has the name, address. In other words, it is anonymous in the public version of the register, but in the private version of the register, the Clerk of course has to take all the details and that is provided for in the schedule of the person. The so-called safety test that has to be passed, there are several conditions that have to be passed, in terms of evidential burden and things to be done and filed. But the basic one is the so-called safety test. In other words, one has got to be able to satisfy the Electoral Officer, in our case the Clerk to the Parliament, that one and/or a member of the family is somehow at risk if where one lives and who one is, is publicly known. I suppose we should care to do the same in the telephone directory. It would seem to be little point in being in the telephone directory and not in the electoral register. But still, this is one of those wonderful things that emanated God knows where. I am sure it is useful to somebody. So, the first thing to satisfy is the so-called safety test, and that is set out at paragraph 61 of the Schedule introduced by the Bill, namely that the safety of the applicant for anonymous entry, or that of any other person of the same household, would be at risk if the name and address of the applicant were to be published in the Register of Electors. The Explanatory Memorandum of the Bill states that the Bill was for the purpose of making provision for the control of donations to candidates standing for election in Gibraltar to the European Parliament, and for late and anonymous registration. The provisions for the control of donations are, in fact, made in English law and covers the

combined region, including the Gibraltar bit. Therefore, there is no need for that to be made, there is nothing in this Bill about donations. Just so that the hon Members know, the control of donations provisions are contained in the European Parliamentary Elections Loans and Related Transactions and Miscellaneous Provisions (United Kingdom and Gibraltar) Order. This regulates loans, as well as donations from Gibraltar individuals and bodies to UK and Gibraltar parties contesting the combined region, in the four months preceding a European Election. Hon Members, I thought, and indeed all political activists in Gibraltar might want to know that there are those new provisions which affect us all, in the context of European Elections in Gibraltar. There is little more that I can say about the Bill following our agreement with the UK that we would always mirror UK provisions, so that the constituencies were not on a two tier system. There is little scope for debate or amendment in this House. I will be moving one amendment to page 335 of the Bill, and that is that the reference to the "Ministry of Defence" will be replaced by reference to "other security services". In other words, that paragraph, I will speak to that but I have given written notice of that amendment and I will speak to it at the Committee Stage. But in terms of the principles of the amendment, the hon Members will be aware from their reading of paragraph 72, that paragraph 72 deals with the person and the circumstances in which the Clerk can give a copy of the anonymous entries, the details of the anonymous entries to the police, and it presently says the MOD and we prefer the term "and other security services" to avoid questions about the status of the MOD in terms of the security services of Gibraltar. But there is that regime which enables the Clerk to give a sort of non-anonymous copy of the register to the police, presently the Bill says "or the Ministry of Defence" and Government would like that to read "the Royal Gibraltar Police or other security services". I commend the Bill to the House.

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

Question put.                      Agreed to.

The Bill was read a second time.

**HON CHIEF MINISTER:**

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today, if all hon Members agree

Question put.                      Agreed to.

**THE CIVIL AVIATION ACT 2008**

**HON J J HOLLIDAY:**

I have the honour to move that a Bill for an Act to make provision generally for the regulation of civil aviation (save for aviation security) in Gibraltar; to provide for the management and control of the commercial and civil use of the airport and of the air terminal and aircraft using its facilities; and for connected purposes, 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 will become Gibraltar's first Civil Aviation Act adopted by this Parliament. It will become Gibraltar's principal piece of primary civil aviation legislation. It will replace the 1969 Order-in-Council and become the framework civil aviation legislation in Gibraltar, serving also to enable the implementation in Gibraltar of the Chicago Convention, and also EU measures relating to civil aviation. Amongst other things, the Bill replaces the Civil Aviation Act 1949 (Overseas Territories Order 1969). The 1969 Order

currently applicable in Gibraltar. It grants the Minister for Transport overall responsibilities for civil aviation matters within Gibraltar, establishes the office of the Director of Civil Aviation and sets out the functions and duties of that office. It empowers the Minister to make regulations, notably to give effect to the Chicago Convention in Gibraltar, and replaces with the necessary changes and adaptations, Gibraltar's existing Civil Aviation Act of 1964. The result is an Act which is divided in seven parts as follows. Part 1 Preliminary provisions. Part 2 Duties and functions of the Minister and the Director of Civil Aviation. Part 3 Administration of the Act. Part 4 The airport and other land. Part 5 Regulation of civil aviation. Part 6 Aircraft and Part 7 Miscellaneous and general. The adaptation of this Bill will be followed by the adaptation of a number of pieces of subsidiary legislation, dealing with the details of compliance with the Chicago Convention in Gibraltar.

I will now turn to an examination of the provisions in the Bill. Clause 2 sets out the definition of the key terms used in the Bill. Clause 3 provides that the Minister with responsibility for transport shall be charged with the general duty of organising, carrying out and encouraging measures for the development and safety of civil aviation in Gibraltar. Clauses 4 to 12 deal with the office of the Director of Civil Aviation. Clause 4 actually establishes the office of the Director of Civil Aviation. The Director will be responsible to the Minister for the discharge of his duties and functions under this Bill. Clause 5 provides that the Director shall have a duty to perform the functions assigned to or conferred upon his office by this Bill, or any other enactment. Clause 6 sets out the procedure for the appointment of the Director of Civil Aviation. The Director shall be appointed by the Government, since it is envisaged that the Director will be called upon to exercise functions which may have an incidence on matters concerning the internal security or defence of Gibraltar, matters in respect of which constitutional responsibility lies with the Governor. The Government shall consult the Governor before making any such appointments. Sub-clause 6 provides an exhaustive list of grounds which may justify a decision by the Government to remove a person from the office

of Director. Clause 7 provides that where a person appointed to hold the office of Director of Civil Aviation is at any time unable to perform the functions of the office, the Government may appoint another person to perform those functions. Clause 8 requires the Government to provide the Director with sufficient resources in the reasonable opinion of the Government, to enable the Director to perform the functions of his office and to do all things necessary for, or ancillary or reasonably incidental to, the performance of such duties. Clause 9 permits the Director to delegate the performance of any of the functions of his office, to either a public officer designated by the Minister, or any person or agency suitably qualified to perform the functions. In the latter case, the delegation shall not be valid unless and until the Minister has given his written approval. Clause 10 places an obligation on the Director to prepare an annual report on the activity of his office during every year, and to submit each such report to the Minister. The Minister shall lay before Parliament a copy of every such report within four months of having received it. Clause 11 provides that it shall be the duty of the Director to furnish to the Minister such information as the Minister may request, and the Director has, or can reasonably be expected to obtain, with respect to any matter relating to civil aviation. The Director shall, in particular, have a duty to furnish the Minister with such information reasonably required by the Minister, for the purpose of enabling the Minister to monitor, assess, or secure compliance with any international or European Union obligations applicable to Gibraltar, or to consider policy in relation to any such aspect of civil aviation. Provision is also made for the Director to furnish to the Governor such information as the Governor may request, and that the Director has and can reasonably be expected to obtain, with respect to any matter falling within the Governor's area of responsibility. Clause 12 sets out the functions of the Director and it does so in broad terms. Clauses 13 to 15 are information gathering provisions. Clause 16 contains the principal regulation-making power. Amongst other things, it allows the Government to adopt regulations (a) for the implementation in Gibraltar of international and European Union obligations relating to civil aviation which apply to Gibraltar, and for any

matter or purpose connected herewith; (b) for the management, control and supervision of the civil airport; (c) for the authorisation, licence and licensing of scheduled air services to and from Gibraltar; (d) for the charging of fees for the grant, approval, endorsement or recognition of licences; (e) for the charging of airport charges for the use of, or for services provided at the Gibraltar Airport or the civil air terminal; and (f) the procedure and principles for the imposition of financial penalties on persons who fail to comply with a condition or obligation imposed on that person under or pursuant to the Bill, or with any other requirements that may be specified under or pursuant to the Bill. Clause 17 permits the Minister and the Director to issue directions to persons who are subject to the Bill, requiring them to do so, or refrain from doing anything which the Minister or the Director, as the case may be, may consider necessary for such person to comply with any provisions of, or any conditions, obligations or other requirements applicable to such person by or under the Bill. By virtue of sub-clause (2), a direction may be issued by the Minister to the Director. Sub-clause (3) makes it an offence for a person to refuse or without reasonable excuse fail to do anything duly required by him, by a direction issued under this clause. Clause 18 empowers the Minister to give the Director such directions as the Minister thinks appropriate to give in the interest of the security of Gibraltar. Since this area covers a matter which is within the Governor's constitutional responsibility, the Minister shall give any such direction as may be specified by the Governor in the interests of the security of Gibraltar. For the same reason, this clause is also without prejudice to the Governor's responsibility for the internal security of Gibraltar. Clause 19 grants the Minister powers to issue administrative notices setting out the criteria by reference to which the Minister and the Director propose to exercise their respective functions under this Act. It also grants the Minister powers to publish administrative notices setting up criteria to facilitate compliance in Gibraltar with any relevant international or European Union obligations. Clauses 20 to 23 are administrative provisions concerning the manner in which documents have to be served, and include provisions on the service of documents in the electronic form, and on the



timing and location of things done electronically. This provision largely follows the equivalent provision in the Communications Act 2006. Clause 24, together with Schedule 1 to the Bill, give effect to the Euro Control Convention 1960 in Gibraltar. Clause 25, sub-clause (1), defines the Gibraltar Airport as “the aggregate of the land, building and works comprising the civil airport and RAF Gibraltar”. Sub-clause (2) defines the civil airport as “the aggregate of the land, building and works comprising the civil air terminal as defined in section 29 and associated aprons under the management and control of the Government”. Sub-clause (3) defines RAF Gibraltar as “the aggregate of the land, buildings and works at Gibraltar Airport, with the exclusion of those parts that comprise the civil airport and which are managed and operated by the Royal Air Force on behalf of the MOD”. Upon the entry into force of the Bill, and acting pursuant to clause 25(4), the Government will publish in the Gazette a plan of the Gibraltar Airport, which will specify which parts of the airport comprise the civil airport and which parts of the Gibraltar Airport comprises RAF Gibraltar. The runway itself will remain part of RAF Gibraltar. As is clear from the remaining provisions of clause 25, nothing in the Bill shall affect the application to RAF Gibraltar of applicable military rule, and nothing in the Bill prejudices or displaces the power and rights of the MOD as owners and operators of RAF Gibraltar, which accordingly remains a British military airport, as has been the case to date. What has changed is the extent of the civil parts of the Gibraltar Airport which have been increased, and the enlarged areas at Gibraltar Airport, which will now come under the control and management of the Government. Clause 26 enables the Government to appoint a manager or operator of the civil airport, who shall exercise general control and supervision over the civil airport on behalf of and subject to the direction of the Government, and over all persons in the civil airport and shall perform such function as may be conferred upon him. In the exercise of control and supervision or the carrying out of any function, the manager or operator of the civil airport shall have regard to and implement the policy of the Government as communicated by the Minister, and shall observe and implement any direction issued by the Minister.

Clause 26 takes over with the necessary adaptation section 3 of the Civil Air Terminal Act 1964. Clause 27 makes it an offence for any person to trespass on any land forming part of Gibraltar Airport. Clause 28 sets out a detailed procedure allowing the Minister to issue directions for giving aircraft warning of the presence of any building, structure or erection in the vicinity of Gibraltar Airport, in order to avoid dangers to aircraft flying in that vicinity in darkness, or conditions of poor visibility. The remaining clauses in this Part, mainly clauses 29 to 32, take over with the necessary adaptations various provisions of the Civil Air Terminal Act 1964. Clause 29 sets out the definition of the “civil air terminal” as currently set out in section 3 of the Civil Air Terminal Act 1964. It will have to be adapted once all the new construction works are completed. Clauses 33 and 34 empower the Minister to adopt regulations to be known as Air Navigation Regulations, for the purpose of carrying out in Gibraltar the Chicago Convention, any annex thereto relating to international standards, and recommended practices and generally for regulating air navigation in Gibraltar. Clause 35 regulates the carriage for reward of passengers or cargo on a flight beginning or ending in Gibraltar. By virtue of sub-clause (1), the operator of the aircraft must hold (a) a valid air operators certificate, specifying activities which include the operation of aircraft on such flights as the flight in question; and (b) a valid operating licence issued in accordance with the European Union Regulations, authorising him to operate aircraft on such flights as the flight in question. Sub-clause (2) deals with the carriage for reward of passengers or cargo between the Gibraltar Airport and an airport situated outside the European Union. Clause 36 empowers the Minister to make regulations setting out the procedure for the grant of an operating licence to air carriers established in Gibraltar, in accordance with and in order to give full effect in Gibraltar to EC Regulation 1008/2008. Clause 37 explains that the Minister may make regulations for securing that the person does not in Gibraltar make available accommodation for the carriage of persons or cargo on flights in any part of the world, or hold himself out as a person who may make such accommodation available, unless he is the operator of the relevant aircraft or holds and complies with the terms of the

licence, issued in pursuance of the regulations, or is exempted by or under the regulations from the need to hold a licence. Clause 38 provides for enforcement in Gibraltar of sums due to the euro control. Clause 39 empowers the Minister to make regulations for the investigation of any accident arising out of or in the course of air navigation, and occurring in or over Gibraltar, for carrying out in Gibraltar any annex to the Chicago Convention relating to the investigation of accidents involving aircraft, and for the purpose of implementing in Gibraltar Council Directive 94/56/EC of 21<sup>st</sup> November 1994, establishing the fundamental principles governing the investigation of civil aviation accidents and incidents, any Directive, or any other European instrument that replaces, amends or builds on that Directive, or that deals with the investigation of civil aviation accidents and incidents. Clause 41 states that regulations may contain provisions regulating the conditions under which noise and vibrations may be caused by aircraft at Gibraltar Airport. In addition, clause 42 empowers the Minister, by notice published in the Gazette, to provide that it shall be the duty of a person who is the operator of an aircraft, which is to take off or land at Gibraltar Airport, to secure that after the aircraft takes off or before it lands at Gibraltar Airport, such requirements are as specified in the notice are complied with in relation to the aircraft, being requirements appearing to the Minister to be appropriate for the purpose of limiting or of mitigating the effect of noise and vibration connected with the take off or landing of aircraft at Gibraltar Airport. This clause grants the Minister far reaching powers in order to control noise and vibration at Gibraltar Airport, including the power to impose a prohibition for landing. Clause 44 sets out the procedure for salvage services, largely by applying to aircraft the same procedure as that applicable to vessels. Clause 45 exempts aircraft and parts thereof, lawfully in or imported into Gibraltar for being detained or seized in Gibraltar, on the grounds that the construction, mechanism, parts, accessories or operation of the aircraft is or are infringements of any patent design or model. Clause 46 empowers the Minister to make regulations for giving effect in Gibraltar to the Convention on the International Recognition of Rights in Aircraft, which was signed at Geneva on behalf of the

United Kingdom on 19<sup>th</sup> June 1948 and which have been extended to Gibraltar. Clause 47 provides that the Minister may by regulation make provisions as to the courts in which proceedings may be taken for enforcing any claim in respect of aircraft. Clause 48 sets out the circumstances under which any act or omission taking place on board a Gibraltar controlled aircraft, or in the circumstances described in sub-clause (2) on foreign aircraft while in flight elsewhere than in or over Gibraltar, which has taken place in Gibraltar, would constitute an offence under the law in force of Gibraltar shall constitute that offence. Sub-clause (9) defines the Gibraltar controlled aircraft. Clause 49 applies for the purpose of any proceedings before any court in Gibraltar. It sets out the procedure empowering the commander of any aircraft in flight, to take action whenever he has reasonable grounds to believe, in respect of any person on board, is jeopardising the aircraft or commits an offence. Clauses 50 and 51 deal with provisions as to the evidence and use of records and other documentary evidence. Clause 52 provides that any powers or duty to regulate ships or vessels, exercisable by any authority in Gibraltar, shall be construed as including a power or duty to regulate seaplanes when on the surface of the water. Clause 53 makes provision for the construction of certain provisions of Part VI. Clause 54 empowers the Minister to make regulations concerning the carriage of dangerous goods by aircraft. Clauses 55 to 59 contain standard provisions on offences by a corporate body, offences committed by others, continuation of an offence, summary proceedings and civil proceedings. Clause 60 sets out the procedure for appeals to be made against decisions of the Minister or the GRA, and is almost entirely based on section 91 of the Communications Act 2006. Mr Speaker, I would like to take the opportunity to point out that at Committee Stage I will be moving a small amendment, as there is a typo in the Bill in relation to clause 69, which actually should read clause 60. Clause 61 provides that the Minister shall, with the consent of the Governor, cause to be notified the provisions of the Bill that shall apply to Crown aircraft in right of Her Majesty's Government in the United Kingdom. Clause 62 confirms the general rule under international law, that reference to a country

or territory, or to the territorial limits of any country, shall be construed as including a reference to the territorial waters of the country or territory, and that the reference to Gibraltar should be construed as including a reference to its territorial waters. Clause 63 sets out the provision to safeguard the Governor's constitutional responsibility. It provides that nothing in the Bill shall derogate from the responsibility of the Governor under the Constitution for defence, internal security or any other matter for which the Governor may have responsibility under the Constitution. Clause 64 sets out the transitional provisions and repeals. Finally, clause 65 provides that any money receivable by the Minister or the Director under the Bill, which the Minister for finance shall not have directed should be paid otherwise, shall be paid into the Consolidated Fund. Mr Speaker, I commend the Bill the House.

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

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

I am very happy to let the Hon Dr Garcia speak first, but he may prefer to hear me before, as he prefers. Yes, I would like to make a contribution to this Bill. I think this is an important and noteworthy Bill in various respects. Civil aviation has hitherto been regulated in Gibraltar, in a legislative sense, by Order-in-Council. Powers have been vested in the Governor, both executive and legislative. Once this Act comes into effect, the Order-in-Council will be repealed. There have recently been two major developments which have altered Gibraltar's aviation prospects and scenario, and in the context and framework of which this Act should therefore be seen. The first is the new Constitution. As is well known, one of the main reforms introduced by the new Constitution was the reversal and elimination of the concept of defined domestic matters. In doing so, the new Constitution accordingly made aviation in Gibraltar the competence and responsibility of the Gibraltar Government, since it was not reserved to the Governor as a Governor's

responsibility. So, hon Members will recall, when we were in constitutional negotiations, that the mechanism of defining the Governor's powers, as opposed to defining ours, has tipped, amongst many other things, aviation into the Gibraltar Government's responsibility, because before it was the Governor's because it was not on our list of defined responsibility. Now because it is not on his list of defined responsibilities, it is ours. Accordingly, while the UK remains responsible, as with everything else, for aviation in the context of its international responsibilities for Gibraltar, and the airfield remains a military airfield the property and under the control of the MOD, save those bits of it that are owned and controlled by the Gibraltar Government, namely the air terminal and its apron, this Act vests the Gibraltar Government and its new Civil Aviation Director, with competence and responsibility for aviation in and in respect of Gibraltar. That is the direct result of the Constitution.

Secondly, the Cordoba Airport Agreement. As is well known, upon its accession to the European Community, Spain succeeded in excluding or in having Gibraltar excluded, it has to be said with the connivance of the United Kingdom, from the benefit of EC aviation measures. That practice commenced with the exclusion of Gibraltar from the Community's important access measures, as they were called. In other words, the right to fly air services between bits of the Community. At the time, that was Council Directive 89/463/EEC of 18<sup>th</sup> July 1989, amending Directive 83/416/EEC concerning the authorisation of scheduled inter-regional services for the transport of passengers, mail and cargo between Member States. Hon Members will recall that although EU aviation measures are now done by regulation, at the time they were done by Directives and that when Spain acceded, we have had discussions in the House about this many times, there was already one Directive in place which related to aircraft of less than sixty odd seats and regional airports. In Spain that was the first Directive, then Spain joins and as of the next Directive, namely this one, the one I have just quoted, there appeared for the first time in Article 2.2 of the 1989 Directive, the clause as follows: "application of

the provisions of this Directive to Gibraltar Airport shall be suspended until the arrangements, the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2<sup>nd</sup> December 1987, have come into operation". In other words, the 1987 Airport Agreement. "The Governments of the Kingdom of Spain and the United Kingdom will so inform the Council on that date". That became the standard Gibraltar suspension clause thereafter. That provision was, as the hon Members will recall, unsuccessfully challenged by the Gibraltar Government at that time in ECJ Case Gibraltar Government versus the Council of the European Communities, and thereafter was subsequently applied, not only to all Community access measures, but indeed also to Community aviation measures which had nothing to do with access. For instance, on the allocation of slots, or on ground handling, or on denied boarding rights, or on the rights of disabled persons, or on the safety of third country aircraft, on aviation security and on the framework for the creation of the Single European Sky, the first version of it which is now itself under amendment. So in other words, once we lost the case the exclusion of Gibraltar moved away from simple access, in other words, the provision of air services between Gibraltar Airport and other Member States, to every Community measure that had anything whatsoever to do with aviation, whether it was environmental, or security, or passenger rights, the application of the clause became universal to it all.

The Cordoba Agreement of 2006, has enabled the enhanced use of the Gibraltar Airport for civilian air traffic by putting an end to Gibraltar's exclusion from EU aviation measures, from all EU aviation measures. Two of its provisions are particularly relevant in this regard. Firstly, that the agreement and the arrangements which it entails will replace the 1987 Airport Agreement, and that full compliance with Cordoba, will for the purposes of all EU measures containing an article suspending the application of that measure to Gibraltar Airport, until the 1987 Declaration is complied with, be deemed to constitute compliance with the 1987 Airport Agreement for the purposes of such articles. Therefore, as part of the arrangements, there will be a lifting of Gibraltar Airport's suspension from all EU aviation

measures, and consequently the Gibraltar Airport will be bound by and comply with and benefit from all applicable EC Regulations and Directives. That is in paragraph 3 of the Cordoba Airport Statement. The second provision is to be found in paragraph 14, that with effect from 18<sup>th</sup> December 2006, Spain would cease to seek the suspension of the Gibraltar Airport from any EU aviation measure not yet adopted. That agreement has therefore opened the way for the full implementation of all applicable EU aviation measures to Gibraltar, thereby enabling the Gibraltar Airport and the people of Gibraltar, to enjoy amongst other things all the benefits of the EU's aviation liberalisation regime, from which we should never have been excluded. Indeed, it is with enormous satisfaction that the Bill already integrates the new EU access measure, which for the first time ever since Spain's accession to the European Union, does not contain the suspension clause. Full application to the Gibraltar Airport of the EU's aviation regime, is therefore now achieved and recognised in this Bill. The new European access measure, about which the hon Members may have heard back in September of last year, is the European Regulation No. 1008/2008, the European Regulation in relation to new air services, of the Council of 24<sup>th</sup> September 2008 on common rules for the operation of air services in the Community. In other words, this is the ultimate, most recent, in September of last year, this is not to be confused with the measure that is presently under the legislative process, the Single Sky. This is the access measures that have already been in place since last September. This is the ultimate successor that has replaced the one from which we were originally excluded back in 1989. It is this regulation that repeals and replaces what was commonly known as the "Third Package of EU Air Liberalisation Measures", which consisted of EC Regulation 2407/92 Licensing; 2408/92 Access and 2409/92 Fares. EC Regulation 2408/92 set out the access regime and all contain the standard Gibraltar suspension clause. Chapter 3 of this new Regulation incorporates the new EU access regime, thereby replacing EC Regulation 2408/92.

Mr Speaker, as I have already just mentioned, it is with great satisfaction that in accordance with what was agreed in the ministerial statement issued in Cordoba on 18<sup>th</sup> September 2006, in the Trilateral Forum, the Gibraltar suspension clause is not in the new Regulation and thus no longer forms part of the EU's access regime. Thus, recital 19 of EC Regulation 1008/2008 provides that "the ministerial statement on Gibraltar Airport agreed in Cordoba on 18<sup>th</sup> September 2006 during the first ministerial meeting of the Forum for Dialogue on Gibraltar, will replace the Joint Declaration on the Airport made in London on 2<sup>nd</sup> December 1987, and full compliance with it will be deemed to constitute compliance with the 1987 Declaration". That language replaced the Gibraltar exclusion clause, and therefore, since 24<sup>th</sup> September 2008, Gibraltar Airport has been a full beneficiary of the European Union's new consolidated regulation in relation to air services or access.

Mr Speaker, this Act and our ability to benefit in full from it, flows directly from the Cordoba Agreement and must be seen in that context. Needless to say, the Bill is fully compatible and consistent with the Cordoba Agreement, to which the Gibraltar Government remains totally committed, as do the United Kingdom and Spain. Mr Speaker, the Bill accordingly reflects the advances made in the new Constitution, and the benefits derived from the Cordoba Agreement. They are the context in which this Act is made possible and relevant. The Bill is the result of intense work over a long period of time, with the Department of Transport in the United Kingdom and the Foreign and Commonwealth Office in the United Kingdom. I would like to take this opportunity to acknowledge the hard work and commitment of, and therefore thank the officials in both those Departments of State in the United Kingdom, that has resulted in this Bill and made it possible. I too, therefore, would like to add, in the context that I have described, my commendation of this Bill to the House.

**HON DR J J GARCIA:**

Mr Speaker, all that I wanted to say initially was that the Opposition is committed, and has been committed for a very long time, to the principle that civil aviation decisions affecting Gibraltar should be taken in Gibraltar, and it should be dealt with in Gibraltar and not in the UK as has happened in the past, where traditionally the Civil Aviation Authority has taken the decision, although there has been some consultation with the Gibraltar Government as part of the process who act on the advice of the Government as part of the process. All I wanted to say was to say that and that the Opposition will be supporting the Bill and will be voting in favour.

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, if all hon Members agree.

Question put.                      Agreed to.

**THE NATURE PROTECTION (AMENDMENT) ACT 2008**

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

I have the honour to move that a Bill for an Act to amend the Nature Protection Act, be read a first time.

Question put.                      Agreed to.

## **SECOND READING**

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

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill follows from the Nature Protection (Amendment) Act 2007 and concerns Article 228 infraction proceedings which have been instituted by the EU as against the UK and Gibraltar, regarding the manner and the extent of the implementation of the judgement of the European Court of Justice, in Case C6/04, the Commission of the European Communities versus the United Kingdom. Although the 2007 Act sought to make all the necessary changes, the Commission has taken issue with some of the provisions in that Act and has further infringed both the UK and Gibraltar. The additional matters provided for in this Bill should now satisfy the Commission. By way of background information, the Parliament will recall that the Habitats Directive was transposed into the law of Gibraltar in 1995 through the amendment of the Nature Protection Ordinance 1991. Transposition had closely followed the UK's own transposition, and inevitably, when infraction proceedings were instituted against the UK, these extended to Gibraltar. Regulations amending the Environment (Subtraction of Groundwater) Regulations 2007 have already been published, and with this Bill, it is intended that all outstanding matters in the infraction be addressed.

Turning now to the specifics of the Bill, clause 2(2) amends section 17PA. The amendments provide that the regime concerning deterioration of sites set out in section 17PA includes provision for the deterioration from past conduct, and to make it clear that when considering deterioration, that the fact that deterioration of a European site may have arisen from human activity or from a failure to act, is not to be taken into account. Clause 2(3) recasts section 17RA to both clarify the surveillance regime of both habitat types and species of Community interest. The principal amendments are to ensure that the surveillance of the conservation status of habitats and sites is carried out systematically and permanently, and that

information be made publicly available. Clause 2(4) carries out minor amendments to section 17RB. The purpose of this amendment is to ensure that the duty cannot be interpreted as being other than mandatory. Clause 2(5) amends section 17T(1)(b)(i) so as to include a reference to hibernation and migration in the offence of deliberately disturbing certain protected wild animal species. Clause 2(6) amends section 17TU so as to restrict the availability of the defence set out in the substantive section, and thus bring the Act in line with the derogations permitted by the Habitats Directive. Clause 2(7) recasts section 17VA so as to clarify the extent to which the monitoring of the incidental capture and killing is required by the Directive. The species concerned are those which are listed in Annex IV(a) of the Habitats Directive. Mr Speaker, I have circulated a small amendment which I will be bringing forward 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, if all hon Members agree.

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:

Yes, Mr Speaker, I am just thinking that at Committee Stage each of these Bills needs to be amended to reflect the correct year, so that they would now become Act of 2009 not Bill of 2008. But they are still called:

1. The Education and Training (Amendment) Bill 2008;
2. The Fostering (Amendment) Bill 2008;
3. The Immigration, Asylum and Refugee (Amendment) Bill 2008;
4. The Taxation (Savings Income) (Amendment) (Bulgaria and Romania) Bill 2008;
5. The Income Tax (Amendment) (Bulgaria and Romania) Bill 2008;
6. The Limited Liability Partnerships Bill 2008;
7. The European Parliamentary Elections (Amendment) Bill 2008;
8. The Civil Aviation Bill 2008; and
9. The Nature Protection (Amendment) Bill 2008.

### **THE EDUCATION AND TRAINING (AMENDMENT) BILL 2008**

#### **Clause 1**

### **HON CHIEF MINISTER:**

I move that “2008” should read “2009”.

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 FOSTERING (AMENDMENT) BILL 2008**

#### **Clause 1**

### **HON CHIEF MINISTER:**

I propose that “2008” should read “2009”.

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 IMMIGRATION, ASYLUM AND REFUGEE (AMENDMENT) BILL 2008**

#### **Clause 1**

### **HON CHIEF MINISTER:**

Yes, I move that the first reference in clause 1 to “2008”, that is in the context of the name of this Act, should change to “2009”, but not the second reference.

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

#### **Clause 2**

### **HON CHIEF MINISTER:**

I have given notice of a number of amendments which really just relate to the deletion of clause 2(6) and the subsequent re-

numbering of sub clause (7) and (8). The reason for the deletion of clause 2(6), is that the principal Acts already contains the definition of the term “xxxxxx” and therefore there is no need to.....

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 TAXATION (SAVINGS INCOME) (AMENDMENT) (BULGARIA AND ROMANIA) BILL 2008**

##### **Clause 1**

**HON CHIEF MINISTER:**

The figure “2008” should read “2009”.

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 INCOME TAX (AMENDMENT) (BULGARIA AND ROMANIA) BILL 2008**

##### **Clause 1**

**HON CHIEF MINISTER:**

Again, I propose that “2008” should read “2009”.

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 LIMITED LIABILITY PARTNERSHIPS BILL 2008**

##### **Arrangement of clauses**

**HON CHIEF MINISTER:**

Well, I do not know what the Clerk means by the Arrangement of Clauses, but if he means clause 1, Arrangement of Clauses is one of my amendments later.

**MR SPEAKER:**

I think he is referring to the notice of amendment.

**HON CHIEF MINISTER:**

That comes before my clause 1, does it, the change of year?

**CLERK:**

Yes.

**HON CHIEF MINISTER:**

Yes, alright, I will take his word for it. I have given notice of amendments which are, I think, secretarial in nature that in the Arrangement of Clauses, which is in effect the index at the front of the Bill, the second reference to clause “3” should be deleted and replaced by a “5”. In other words, it reads “3”, “4” and then goes back to “3”, it is just a typo. The reference to clause “15 Consequential Amendments” should be deleted altogether and, consequently, the following number “16” should become “15”.



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

**Clause 1**

**HON CHIEF MINISTER:**

The date “2008” should read “2009”.

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

**Clauses 2 to 15** – 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 EUROPEAN PARLIAMENTARY ELECTIONS  
(AMENDMENT) BILL 2008**

**Clause 1**

**HON CHIEF MINISTER:**

I move that “2008” should read “2009”.

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

**Clause 2** – was agreed to and stood part of the Bill.

**Clause 3**

**HON CHIEF MINISTER:**

In respect of clause 3 and its insertion of a new paragraph 72, which the House will find at page 335 of the Bill, I propose that in sub-paragraphs (1) and (3), the words “the Ministry of

Defence” should be replaced by the words “other security services”.

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

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

**THE CIVIL AVIATION BILL 2008**

**Clause 1**

**HON J J HOLLIDAY:**

I would like to move that the year “2008” be changed to “2009”.

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

**Clauses 2 to 59** – were agreed to and stood part of the Bill.

**Clause 69**

**HON J J HOLLIDAY:**

As I mentioned before, there is a typographical error on page 270, where it reads “69” where it actually should be “60”.

Erroneously numbered clause 69, as amended into clause 60, was agreed to and stood part of the Bill.

**Clauses 61 to 65** – were agreed to and stood part of the Bill.

**Schedules 1 to 3** – 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 2008**

### **Clause 1**

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

I propose that the figure “2008” be deleted and substituted by “2009”.

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

### **Clause 2**

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

I propose that in clause 2(3), which inserts the new section 17RA, at the new section 17RA(3), (a) for the words “surveillance subsection (1)”, I propose we substitute “surveillance under subsection (1)”; and (b) delete the words “undertaken pursuant to”. In clause 2(6), for “17T(U)(4)” substitute “17U(4)”.

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.

## **THIRD READING**

**HON CHIEF MINISTER:**

I have the honour to report that:

1. The Education and Training (Amendment) Bill 2008;
2. The Fostering (Amendment) Bill 2008;
3. The Immigration, Asylum and Refugee (Amendment) Bill 2008;

4. The Taxation (Savings Income) (Amendment) (Bulgaria and Romania) Bill 2008;
5. The Income Tax (Amendment) (Bulgaria and Romania) Bill 2008;
6. The Limited Liability Partnerships Bill 2008;
7. The European Parliamentary Elections (Amendment) Bill 2008;
8. The Civil Aviation Bill 2008;
9. The Nature Protection (Amendment) Bill 2008,

have been considered in Committee and agreed to with amendments, and I now move that they be read a third time and passed.

Question put.

The Education and Training (Amendment) Bill 2008;

The Fostering (Amendment) Bill 2008;

The Immigration, Asylum and Refugee (Amendment) Bill 2008;

The Taxation (Savings Income) (Amendment) (Bulgaria and Romania) Bill 2008;

The Income Tax (Amendment) (Bulgaria and Romania) Bill 2008;

The Limited Liability Partnerships Bill 2008;

The European Parliamentary Elections (Amendment) Bill 2008;

The Civil Aviation Bill 2008;

The Nature Protection (Amendment) Bill 2008,

were agreed to and read a third time and passed.

## MOTIONS

### HON CHIEF MINISTER:

I have the honour to move the Motion standing in my name which reads as follows:

“That a Select Committee of this House comprising two Members nominated by the Chief Minister and two Members nominated by the Leader of the Opposition, under the Chairmanship of one of the Members nominated by the Chief Minister, be constituted to consider and report back to the House with recommendations on the following matters:

- (1) desirable change to the processes and procedures and manner in which the House carries out its business;
- (2) desirable amendments to the Standing Orders of the House;
- (3) whether the number of Members of the House should be increased in the manner now permitted by the new Constitution, and if so, in what manner and on what terms.”.

Mr Speaker, the purpose of the Select Committee that the Motion proposes, and the final outcome of its work and eventually the House's consideration of it, and adoption of it, with or without amendments, or not as the case may be, is to bring up to date the processes and procedures and way of working of this Parliament, in order to achieve a variety of things, to make the exercise of this House's various functions more effective, in all its respects. Its function as a legislature, as a law maker, but also its function in holding the Executive to account in Question Times and other mechanisms, and also its functions of debating relevant issues on a timely basis. Also, to

make more effective use of its time. Thirdly, to work in a way that better reflects Gibraltar's changed political and constitutional circumstances.

We all know the history but it bears repetition briefly, if the Hon Dr Garcia will permit me to usurp his traditional functions as the historian of the House. There has never been a fundamental review of the way this Parliament works. The current Standing Orders, save in respect of very minor amendments, were adopted by LegCo on 10<sup>th</sup> December 1964. That is to say, 44 years ago. In the meantime, good parliamentary practice has changed, the role and status of the Gibraltar Government and Parliament, and Gibraltar's degree of self-government as an emancipation, has changed, and accordingly, it is right that Parliament's working practice should change. Firstly, to reflect these changes and the parliamentary needs that go with those changes, and also to better reflect Gibraltar's current, vibrant, modern and much developed and advanced self-government.

The issues that I think will concern the Select Committee in the first place, and subsequently the House, I think are many. The Standing Orders are the obvious first example, because they describe the rules of play in this House. But also how this House organises its agenda for the meetings. In other words, we should consider whether we should abandon this sort of lineal, chronological system whereby a meeting starts at some point, with Opposition Question Times and then there is not another opportunity for Opposition Question Times until that meeting has been adjourned sine die and we have the next meeting, with the next agenda and we then go in chronological order. Perhaps in favour of a more traditional parliamentary system, where the House is in permanent sitting subject to fixed vacations. By permanent sittings I do not mean that we sit every day, but the House is not organised in the context of an agenda with a chronological order of business, but rather is deemed to be in permanent meeting, save vacations, and within that there are regular and pre-programmed, by some description of rule described in the new Standing Orders, perhaps frequent and regular opportunities for Question Times, which may be on the

basis, for example, of the UK Parliament, where there are regular, within certain periods of time, Parliamentary questions but it may not be necessary for the whole House to be present. We could consider moving to a system of housing questions, or foreign affairs questions, or economy questions on different days and at different times, with the House differently constituted. Anyway, these are all the ideas I think that the Select Committee needs to mull around and come up with a recommendation for the House.

The process to consider and adopt legislation, I think, needs to be considered. As we are here today we have heard repeated readings of long Long Titles, first by the Clerk, then by the Chief Minister, who sometimes abrogates the function, and then by the Speaker again, and then again in Committee Stage, and then again. How many times does our procedure need the whole Long Title of the Bill, which are sometimes very long, these are all things that can be reconsidered in the context of this process. As I have said, the nature and frequency of opportunity for Opposition Questions and Motions, why should it always be at the end of a meeting, the length of which is decided, in effect, by the Government of the day as well as the number of opportunities that the Opposition has for that, because subject to the constitutional minimum of three, in effect, the number of meetings that the House holds is in the gift of the Government in general and the Chief Minister in particular. We may wish to consider whether we want to make greater use of committees. It is something to consider, and indeed, this question of the size and composition of the House, and indeed, any other issues. What I would like to recommend to the Committee, if it is constituted, is that it should be a thorough root and branch look at everything for the future. In other words, that they should start almost with a blank sheet of paper and say, how do we think Parliament should function for the next decade, the next decade and a half or two. Rather than just take the view that it is going to fiddle around with changing this line or that word from our existing procedures.

There are, of course, some constraints on our ability to do things, there are some relevant and therefore binding provisions of the Constitution, and they have to be borne in mind by the Committee, they are to be found in Chapter 3. For example, section 25(1)(b) of the Constitution says that the House must have at least 17 Members, or such number in excess of 17 if such increase is approved by a Motion supported by a two thirds majority of MPs. So, to increase above 17 would require a particular majority in this House and not just a simple one. In terms of the legislative process itself, section 35 says that no Bills or Motions with financial implications may be brought without the consent of the Minister for Finance, and section 35 also says, that six weeks notice of Bills must be given unless the Chief Minister certifies that consideration of the Bill is too urgent to permit such a delay. So, obviously, there cannot be any change to either of those because they are in the Constitution. Section 36 says that legislation may prescribe the privileges, immunities and powers of Parliament and its Members, but cannot exceed those of the House of Commons in the United Kingdom. So, again, that is a constitutional constraint which cannot be circumvented by the work of the Committee. Section 36 says that meetings shall be at such place and begin at such times as the Chief Minister may from time to time, by notice published in the Gazette, appoint. Not more than three months shall elapse between a General Election and the second meeting and there must be at least three meetings a calendar year, two in an Election year. Well, again, those things can be factored in and we can organise our lives around that, but we cannot transgress those constitutional provisions. Section 39 provides specifically for the making of rules of procedure of this House, and provide that Parliament may from time to time make, amend and revoke rules of procedure for the regulation and orderly conduct of its proceedings and the despatch of business, and for the passing, entitling and numbering of Bills. Section 41, read in conjunction with section 26(6), deals with Speakers, appointment of Speakers and vacancies in the Office of Speaker. Section 42 deals with quorum, in effect, it provides that there must be effectively six. The actual formula is 30 per cent rounded up to the nearest one, 30 per cent of 17 is 5 point

something, so in effect, rounded up, six is the minimum quorum for business in this House and we cannot get around that. Section 43 makes provisions for voting.

So, as I say, it would be the Government's wish that this Committee should look at all aspects of Parliament's procedure, all aspects of how we organise our business, including this business of the concept of the structured meeting with a particular chronological agenda. I think I would like to recommend to the Committee that it should, perhaps, consider inviting past Members and past and present Speakers, to offer suggestions based on their experiences in this House, by way perhaps of submitting evidence. I think all people that have served in this House, both as ordinary Elected Members and as Speakers, I am sure will have worthwhile suggestions to make about how they believe that the processes of this Parliament can be improved. I would also like to recommend to the Committee that it should propose draft texts to this House of any new Standing Orders, and of any other necessary legislative amendments.

In conclusion, the Government are promoting a complete review and overhaul and, therefore, what we agree, assuming that we can, I am confident that we will, will probably be in place for many decades to come, as the existing system has turned out to have been in place for many decades. These are not things that tend to be changed and looked at in depth very often. During this period of time, during which whatever we now agree by way of fundamental change will be in place, there will be many changes of government and opposition and, therefore, we should approach our work as parliamentarians and not on a partisan basis. We should assume that at different times we might be both in government and in opposition, and, therefore, we should promote and defend and uphold the interests, both of government and of opposition, regardless of who is the incumbent at the time that we do our work in those offices. We should disregard, to the greatest possible degree, the political tensions and cut and thrust which divide us on other matters, even as we meet with each other on this work. Mr Speaker,

therefore, and for these reasons it is most desirable that change be introduced through consensus. Bearing in mind that there is already a consensus for the starting point, which is that, I think, almost everybody, if not everybody in this House, agrees that the present system is out of date and needs reform. If that is true, all that remains to be discussed and agreed is what the new system should look like. I commend the Motion to the House.

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, will we agree to participate in this Select Committee and then we will make up our own minds what we feel needs or does not need to be done in the light of the views we hear from others. Let me say that as far as the Standing Orders of the House are concerned, we only see a need for that to be there in relation to any changes of Standing Orders that might be required in order to accommodate any other changes that may be recommended in respect of other aspects of the work of this Committee, because the fact that the existing Standing Orders have been there for as long as they have, is because the House has chosen not to change it in that time. That is to say, there is a Standing Orders Committee and we could meet next week and change the Standing Orders without waiting for a Select Committee to make a recommendation. In terms of the Standing Orders that are required for the business of the Parliament to be conducted as it is conducted currently. If we have got a Standing Order that says that there has to be seven days notice of a question, there is nothing to stop us saying we want it to be 14 days or we want it to be 24 hours, and we could have done that at any time. I imagine that the Standing Orders have been there, as they have been unchanged for this long, because nobody on either side of the House, in throughout that very long period of four decades, ever thought of suggesting something that was better than what was already there. But there is absolutely nothing that inhibits this Parliament, or any of

its predecessors, from having put into the Standing Orders whatever they wanted to put in the Standing Orders, and that is still there. Therefore, as far as we are concerned, I am putting the Government on notice that we only see a need for desirable amendments to Standing Orders to be there in the context of new things that are not happening now. But that does not stop us, if we think that the Standing Orders that we have got today are out of date and need changing, we can change them tomorrow because all we need to do is to convene a meeting of the Standing Orders Committee. So, we will enter this with an open mind and will see what comes out of it.

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

Well, then perhaps my closing remark turns out to have been incorrect, there is no consensus, apparently, that there is a need to modernise and reform the procedures of Parliament. Let me hasten to add, that that is not the view on the Government side. Nor, I think, will the Hon Leader of the Opposition's words strike a chord with the citizens out there, who rightly or wrongly, appear to believe that the way that this House works needs reform. A view with which we agree, it is implicit in the hon Member's statement that he agrees to participate in the work of the Committee, and will form a view after hearing the views that others may suggest, that he has no views of his own in terms of the need or what the need might be for doing things in a different way. I do not know if that is reading too much into what he said about after hearing the views of others, but certainly, the tenor, tone and content of his contribution on this debate, I am sure will have come across to all that are hearing, certainly that is how it has come across to me, as meaning that the Hon Leader of the Opposition is not entirely persuaded that there is a need for very much to change. The Government is not of that view. The Government think that the process and procedures in this House should change root and branch. Primarily, to give greater opportunities to current and future opposition parties to hold the Government further, more timely and more effectively to account than is possible by the current system. Certainly, we

will be making recommendations. I would hope that by the time the Committee meets to work, the hon Members will also have recommendations to make of their own, but if despite my hope it turns out not to be so and the hon Opposition Members of this Committee limit their role, which I think would be less than entirely desirable, simply to expressing a view to the proposals suggested by the Government, I think we would be missing a wonderful opportunity to convert this Parliament, through a change of its rules, from rules that were introduced when we were simply a legislative assembly, into proper, different processes and procedures now that we are a fully fledged parliament. But of course, as always, it is up to the hon Members to decide what their position will be in matters and we will see how it goes. But certainly, we would hope and expect that from this process will emerge a significant reform and modernisation of the way this Parliament does its business, which will enable us as a Parliament, as a body, I am not talking about government or opposition, Parliament as a body to connect more with the citizens that we serve, that will look and feel more relevant and more important to the citizens that we serve in their day to day lives. That is what the Government want to achieve out of this and I hope that when the Leader of the Opposition is, perhaps, feeling a little bit less hungry than he is now, given that it is 12.45 p.m., he will introduce more enthusiasm and more intellectual thinking into the work of the Committee, than he has indicated so far. I look forward, I do not mind informing the hon Members that my present intention is that the Government's representatives on the Committee should be me and the Hon Ernest Britto, so I will write to the hon Member in due course and ask him to nominate his own two, unless he is already in a position, and indeed willing, to communicate it to the House.

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

I am, it will be myself and Dr Garcia.

**HON CHIEF MINISTER:**

Well, I am glad that that is so because it suggests that the exercise is not quite so unimportant as he suggested in his address, or otherwise he would not be using his time on it. I commend the Motion to the House.

Question put.           The House voted.

The motion was carried unanimously.

**ADJOURNMENT**

**HON CHIEF MINISTER:**

Yes, well, see Mr Speaker, here is a prime example of the saying that even a broken clock is right once a day. The clock on the wall which does not work and has been at quarter to one all day, it is indeed now quarter to one, and I move that the House do now adjourn sine die.

Question put.           Agreed to.

The adjournment of the House was taken at 12.45 p.m. on Friday 9<sup>th</sup> January 2009.