REPORT OF THE PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

The Fifth Meeting of the Eleventh Parliament held in the Parliament Chamber on Wednesday 3rd 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 18th 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 4th 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 3rd December 2008.

THURSDAY 4TH 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 5th 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 4th December 2008.

FRIDAY 5TH 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 9th 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 5th December 2008.

FRIDAY 9TH 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 Gibraltarian 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 fist 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 21st 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 19th 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 18th 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 2nd 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 18th 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 24th 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 18th 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 18th 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 2nd 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 24th 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 infracted 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 10th 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, entituling 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 9th January 2009.