



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.30 p.m. – 6.00 p.m.

Gibraltar, Wednesday, 19th September 2012

The Gibraltar Parliament

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The Parliament met at 3.30 p.m.

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[MR SPEAKER: Hon. H K Budhrani QC *in the Chair*]

[CLERK TO THE PARLIAMENT: M L Farrell Esq RD *in attendance*]

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PRAYER
Mr Speaker

20

Order of the Day

Clerk: Meeting of Parliament, Wednesday, 19th September 2012.

(i) Oath of Allegiance.

(ii) Confirmation of Minutes.

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The Minutes of the last Meeting of Parliament which commenced on 21st June 2012 and ended on 26th July 2012.

Mr Speaker: May I sign the minutes as correct?

30 *It was agreed.*

Mr Speaker: Thank you.

35 **Clerk:** (iii) Communications from the Chair.
(iv) Petitions.
(v) Announcements.
(vi) Papers to be laid.
(vii) Reports of Committees.
(viii) Answers to Oral Questions.

40

Questions for Oral Answer

45

Marine Officer post Recruitment

Clerk: Question 687/2012, the Hon. D J Bossino.

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Hon. D J Bossino: Since Question 112/2012 was asked, is the Minister for Tourism, Public Transport and the Port now in a position to advise whether the position of Marine Officer has been filled?

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

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Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, the position has not yet been filled.

60 **Hon. D J Bossino:** The reply to the Question I have just cited in the written Question was that the Government was currently in the process of advertising the vacancy.

Mr Speaker, is the Minister in a position to confirm to me when the vacancy was, in fact, advertised?

65 **Hon. N F Costa:** Mr Speaker, I do not have the exact date of when the position was advertised for the second time, but the closing date for that position was on 13th June and the date of the interview will be on 27th September.

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Hon. D J Bossino: Mr Speaker, have I understood the Minister correctly, that there was a second vacancy advertised?

70 **Hon. N F Costa:** No, Mr Speaker, the position was that there was a vacancy advertised internally at the end of March. There was no suitable candidate found by that selection board, as a result of which we had to open the vacancy again.

75 **Hon. D J Bossino:** Is the Minister able to answer politically in this House as to what the reason was for the failure to fill the vacancy in the first process he has just referred to?

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Hon. N F Costa: No, Mr Speaker, it is not a political answer. The fact is that the interview board, for the reasons and their own deliberations, decided there was no-one suitable at the time, and that was the advice given to me, which I of course accepted.

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Hon. D J Bossino: Mr Speaker, both the Minister and I have discussed this issue in the past in this House, and I think we both agreed the importance of... I know we made, in the context of that question-and-reply session, political statements, but I think we both agreed the importance of having that position filled for the

proper functioning of the Port, because the Marine Officer – in effect, I think you also agreed on that – ought to be in a position to properly deputise for the Captain of the Port.

85 So in those circumstances, can he give this House an indication as to whether he is satisfied as to the delay that this process seems to be subjected to?

90 **Hon. N F Costa:** Mr Speaker, in the first place, as to the importance of the position of Marine Officer, I have agreed with the hon. Gentleman that it is our position that the sooner the post is filled, the better; but as I did point out to him during the course of the last question-and-answer session, it was in fact the case that, between 1990 and 2010, there was no Marine Officer, with only a Captain of the Port obviously would have worked quite well. So therefore, for nine years of his administration, there was no Marine Officer, but having said that, the Port did not go down in flames, and it continued to work.

95 Notwithstanding that, I do agree with him that the post of Marine Officer to deputise for the Captain when he is absent is, in fact, advantageous. As I have told him, the selection board will hold the interview on 27th September and I am hopeful therefore that this then will come up with a positive recommendation, so that we can then fill that post.

100 **Hon. D J Bossino:** Mr Speaker, as the Minister is fully aware, the position was in fact filled when the GSD was in office but, due to unfortunate circumstances, the position was vacant in, I think it was, April or May 2011.

Can he confirm to this House that what is holding the process up is, in fact, the failure to identify a suitable candidate in the first round?

105 **Hon. N F Costa:** Well, no, Mr Speaker, as I said, the selection board came with no recommendation, following which there was a second notification of the position.

Applicants wrote in. There were, in fact, six applicants who will be interviewed. I imagine the reason may have been human resources deployment, but it is not for the reason that the hon. Gentleman alluded to just a few moments ago.

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Hon. D J Bossino: Mr Speaker, I am sure the Minister has answered this point, but can he advise this House, if he has not, whether the vacancy is being advertised exclusively internally?

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Hon. N F Costa: As a first step, yes, Mr Speaker.

Hon. D J Bossino: So, presumably all the six applicants currently expected to be interviewed are from within the Port?

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Hon. N F Costa: Yes, Mr Speaker, to clarify the point, the very first time that it was advertised in March, it was only internal. Given that there was no successful applicant internally, it has been opened now internally and externally.

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Hon. D J Bossino: Ah! Yes, I am grateful for that confirmation, Mr Speaker, because I think the initial reply was not *[inaudible]*.

Mega Yacht registry Promotion and marketing

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Clerk: Question 688, the Hon. D J Bossino.

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Hon. D J Bossino: Mr Speaker, can the Minister for Tourism, Public Transport and the Port provide details of the plans the Government has to promote and market the Mega Yacht registry?

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

140 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, since the Gibraltar Yacht Register was taken back into direct Government control, I opened and spoke at the Gibraltar Yacht Seminar in April, and at that seminar I outlined the plans to promote and market the Yacht Register.

The outline included the Gibraltar Yacht Register meetings with all the interested parties in Gibraltar, attendance at the Amsterdam Yacht Show, Monaco Boat Show and arranging to meet with the chartering agents in London.

145 A meeting with all the interested parties in Gibraltar was held on 13th September, and there was an extensive discussion on the way forward, including carrying out some more in-depth background research on the advantages of registering these yachts in Gibraltar.

The Registrar of Yachts will attend the Amsterdam Boat Show from 12th to 14th November and will also visit the Monaco Boat Show from 19th to 22nd September. Further plans to promote and market the Yacht Register will be developed in conjunction with all of the interested parties in Gibraltar.

150 **Hon. D J Bossino:** Mr Speaker, I thank the Minister for that reply.

155 Is he able to advise this House whether he is aware that my party, when in office, had very much advanced plans to produce a publication? All the literature was ready, all the designs and everything were ready. Does he know whether he found that on his desk when he entered office on 9th December? Certainly from this side of the House, we are somewhat surprised that that has not seen the light of day, given the advanced nature of that particular publication.

So I wonder if the Minister is in a position to enlighten this House as to where those plans currently are.

160 **Hon. N F Costa:** Mr Speaker, I have not been made aware by my officials of any plans that were being developed by the previous administration.

165 **Hon. D J Bossino:** It may be unfair to ask this question of the Minister, but he will forgive me as a relatively new Member of this House, and having had no previous Government experience, is he able, from the reply he has just given us, to dissect – of the marketing plans he has just outlined – that which is his Government's initiative from what was there before?

170 **Hon. N F Costa:** Mr Speaker, as I have answered my hon. Friend, the plans that have been devised in respect of the Monaco Boat Show and the Amsterdam Yacht Show have come about as a result of meeting stakeholders in Gibraltar. Now, whether or not those were in the pipeline or thought of when *his* administration was in place, I could not say for sure.

175 **Chief Minister (Hon. F R Picardo):** Mr Speaker, if the hon. Gentleman will allow me just to try and dissect for him that which he has asked that we dissect, certainly he will know – because he was in this House – that during the course of my Budget address, one of the measures taken related to import duties in respect of yachts. Obviously, therefore, the marketing of that product could not have occurred before the Budget statement. I understand that those were matters that were being brought to the attention of the previous administration but that the previous administration had not agreed with, so anything that flows in respect of that *new* potential for the registration of vessels in Gibraltar – that new attractiveness for the registration of vessels in Gibraltar – will essentially flow *only* as a result of the Budget statement under this administration.

180 Of course, all the material for marketing Gibraltar as a jurisdiction for the registration of yachts will have to be updated, because that will be one of the marks of attraction in particular for vessels of a particular size. He knows that we were, in that statement, trying to attract the business of superyacht registration and berthing and housing, so to speak, in Gibraltar.

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**Facilities for small boat owners
Government plans**

190 **Clerk:** Question 689, the Hon. D J Bossino.

Hon D J Bossino: Can the Minister for Tourism, Public Transport and the Port advise this House what

plans the Government has for the provision of facilities for small boat owners?

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Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Yes, Mr Speaker. As stated in my Budget speech, the plans that the Government has for the provision of facilities for small boat owners is as set out in our manifesto.

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Hon D J Bossino: Perhaps, Mr Speaker, by way of confirmation... and he will understand, when I explain to him now, why I asked the question is because I saw that there appear to be certainly in the wording... I have read both his Budget speech before drafting the Question, as well as the relevant bit in the GSLP/Liberal manifesto. Now, as far as the latter document is concerned, it made specific reference to the location of the berths, as well as the number. I do not have the manifesto in front of me – I think the location was Europort and the number was 700.

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Now, months down the line, in his Budget speech, no reference was made to the precise location or the number, and that is precisely why I asked for clarification. But maybe he could expand on his initial written response.

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Hon. N F Costa: Yes, Mr Speaker, I am happy to do so. The plans are as stated in the manifesto, so the location still continues to be Europort and the number still continues to be 700 berths.

The reason for not specifying the number during the course of the Budget speech is only because we are trying to see whether we can squeeze more berths in the same area, depending on the design that will be used.

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Hon D J Bossino: Is the Minister able to –

Hon. N F Costa: Sorry – it certainly will not be less than 700.

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Hon D J Bossino: I think that was understood – and if it does not materialise, he can rest assured, I will be asking further questions in this House!

Mr Speaker, in his Budget speech, the Minister does say that a project is underway. Is he able to give further particulars as to what stage the project is currently at?

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Hon. N F Costa: Yes, Mr Speaker. The project is at the EIA screening report stage, which runs in parallel with the wave action reflection modelling stage. So once that is completed an EIA can be conducted and the wave reflection effects on the rest of the harbour can be ascertained. That will determine whether any changes need to be introduced to address any EIA concerns and whether any wave reflection dampening is required in the design.

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Hon. D J Bossino: Presumably those changes would not impact, given both his electoral and political commitment, just given to this House, on the numbers. He is satisfied of that, is he?

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Hon. N F Costa: Yes, Mr Speaker.

Hon. S M Figueras: Sorry, just one more question perhaps.

Is the Minister in a position to confirm whether or not there is a specific deadline or timeframe in which the, during which construction will begin with this project?

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Hon. N F Costa: I do not have a specific date, Mr Speaker, but certainly in time before the next election.

Hon. S M Figueras: I have only asked the question, Mr Speaker, because we are aware of comments made in the public domain that plans are at an advanced stage and that, indeed, construction will be beginning in the next month. I was merely trying to establish whether there was any information on that.

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A Member: I shouldn't believe that!

250 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, will the Hon. Minister be consulting with the rowing clubs as to the construction of the berths because, of course, that will be right in front of the pathway and rowing vessels would have to get in and out of the area?

Hon. N F Costa: Yes, Mr Speaker, the hon. Lady raises a valid point. But we will not only be consulting with the rowing clubs, but all relevant stakeholders.

255 **Hon. D J Bossino:** Presumably, Mr Speaker, the Government's commitment is to complete the project before the next General Election?

Chief Minister (Hon. F R Picardo): Yes.

260 **Hon. D J Bossino:** I think I heard the Chief Minister.

Hon. Chief Minister: Yes, absolutely. Yes.

265 **Hon. D J Bossino:** Not simply start it?

Hon. N F Costa: Yes, Mr Speaker.

Hon. D J Bossino: Not simply start it?

270 **Hon. N F Costa:** No, no, complete the project.

Hon. Chief Minister: The hon. Gentleman is right: the construction will begin in time for the project to be finished before 8th December 2015 and, of course, no doubt we shall look forward to being given the *huge credit* necessary in respect of the completion of such an important project with social value in the period of this, our first Parliament.

280 **Hon. P R Caruana:** Yes, Mr Speaker, we certainly will. When we inaugurate it immediately after the next election (*Applause*), we certainly will not be taking credit for it, as you have done with our project in the court building! (*Laughter*)

285 **Hon. Chief Minister:** Mr Speaker, if all they do, if heaven forbid they were to once again form the Government of Gibraltar, is at least (*Interjection by Hon. P R Caruana*) (*Laughter*) be as generous as the Hon. the Minister for Justice was in his previous press releases and in his Budget speech about the development of the law courts, and as I was in the course of my speech at recognising the cross-administrative nature of those particular projects (*Interjection by Hon. P R Caruana*), we will have been, Mr Speaker – and he will then be, if he is even then a Member of this Parliament – much more generous than he ever was in this Parliament about the legacy that he inherited in 1996, which other Ministers sitting alongside him in their Budget speeches in May-June 1996 and 1997 recognised and he did not, because he has been characterised forever as a man who believed that the world started on the day that he was first elected in 1996 and he will go down in the history of Gibraltar as the only politician to pretend that that was the case in respect of any of the parliaments that we have had the pleasure of having since our first Constitution.

Clerk: Question six hundred –

295 **Hon. P R Caruana:** Does the hon. Member not accept that the legacy that we inherited in 1996 was not one worth celebrating? As I recall it, the people of Gibraltar had just demonstrated on the streets because they thought that the then GSLP Government was taking Gibraltar to the very precipice, which indeed it was. I cannot think of anything about the legacy of the last GSLP Government that we inherited and I have spent 16 difficult years fixing, that would have been worthy of note or celebration. Indeed, as I recall, Gibraltar could not wait to get rid of that Government quickly enough for it to survive.

300 For the hon. Member now to think that he can airbrush history away by pretending that, in 1996, the previous GSLP Government left Gibraltar in the sort of state that only an ungenerous successor would not

305 acknowledge to have been a wonderful legacy is the worst example of the rewriting of history that I have heard, certainly in the years that I have been in this Parliament, which of course is not to say that the previous GSLP Government did not, during eight years – long and difficult years for Gibraltar – managed to do *some* things right but, on balance, as shown by the fact that you have managed to go from a 72% majority to defeat in just four short years, I think the electorate more or less agrees with *my* evaluation as to the quality of the legacy and not with the hon. Member’s rewriting of it now. (*Applause*)

310 **Hon. Chief Minister:** Mr Speaker, I am surprised to see Mr Bossino applauding that, (*Laughter*) given where he was in 1996! (*Interjections and applause*) But anyway, but anyway... well... Mr Speaker –

Mr Speaker: Order!

315 **Hon. Chief Minister:** Mr Speaker, the hon. Gentleman –

Mr Speaker: Order! Order! Order!

320 **Hon. Chief Minister:** The hon. –

Mr Speaker: Order!

325 **Hon. Chief Minister:** I know he is there to absorb all the shocks until he goes, Mr Speaker, to try and avoid affecting the others, who will hopefully stay to *try* and fight another General Election, but one has to say things that one has to say.

Mr Speaker, the only person who is going to write history is the Hon. the Deputy Chief Minister, who, when he retires many years from now, having had a long and prosperous career, generous career, in Government, will be writing a history of all our histories for the future, I have no doubt, and he will treat him with the generosity that he deserves. (*Interjection by Hon. P R Caruana.*)

330 **Mr Speaker,** the hon. Gentleman is arguing against his own Ministers, and this is almost the schizophrenia that was present in some of the Budget speeches of the Members opposite during the Budget debate. The hon. Gentleman knows, because he was sitting in the chair in which I sit now, that when the Hon. Mr Montegriffo, his then deputy, delivered his first Budget address, sitting alongside him in 1996, he recognised that the GSD were building on the legacy of the GSLP in the growth of the finance centre in the eight years between 1988 and 1996.

335 **Mr Speaker,** if the Deputy Chief Minister in his Government was saying that then and he did not get up and shut him up, as he was prone to do when any of his Ministers said something he did not agree with, well one must assume that the Hon. Mr Montegriffo then, as Deputy Chief Minister, was telling the truth.

340 Then his next deputy, Mr Speaker, Mr Azopardi... Perhaps this explains, Mr Speaker, why, once one became the hon. Member’s deputy, one was for the high jump, and perhaps the present deputy might want to take note of that. But Mr Azopardi, Mr Speaker, when he delivered one of his Budget speeches, also alluded to the fact that, in the years from 1988 to 1996, a great legacy was left to the Government that came after and that the GSD was building on that legacy.

345 I refer the hon. Gentleman to the speeches of his deputies, Mr Speaker. Perhaps that is why the head became disentangled from the body so often in the times that he was in Government.

Hon. P R Caruana: Yes, that is one explanation. Another explanation is that that is why they never not got beyond deputy! (*Laughter and interjections*)

350 **Mr Speaker,** of course I am very happy to allow the record to lie as it does. In other words, let people judge our respective powers of analysis and political judgement on the basis that I believe that, in 1996, the people of Gibraltar did not think that Gibraltar was in a good place of going in a right direction and a good legacy, and that the hon. Member *to this minute* continues to insist that it was. I am delighted for that to be a monument to how people can distinguish his judgement from mine.

355 **Mr Speaker:** Before the Hon. the Chief Minister replies, I have allowed a considerable amount of deviation from the (*Interjection by Hon. P R Caruana*) building of the facilities for small boat owners. After this response, we will have to move either back to the small boat owners or to the next Question.

360 **Hon. Chief Minister:** Mr Speaker, what this Government will always accept, both in respect of our statements and in respect of our actions, is that the judges of what we do and what we do not do are the public, and they determine when we get things right and when we get things wrong. They determined, Mr Speaker, in 1996, that Gibraltar required a change of Government, not because that Government had done nothing, but in the same way that they had determined in 1988 that it was time for a change of Government, and, thank God, Mr Speaker, on 8th December 2011 when they decided that it was once again time for a change of Government.

365 I rely, Mr Speaker, not on *my* judgement or on the hon. Gentleman's, but on the judgement of the people of Gibraltar.

Hon. P R Caruana: Of a minority of the electorate? He relies on the [*inaudible*] of a minority of the electorate.

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Hon. Chief Minister: As the hon. Member did since 2007 – (*Interjection by Hon. P R Caruana*)

Mr Speaker: Order! Order! Order!

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Does the Hon. Damon Bossino have another supplementary on small boat owners?

Hon. D J Bossino: Mr Speaker... (*Interjection by Hon. Chief Minister*)

Well, no, Mr Speaker – I will follow Mr Speaker's ruling on this matter, but there is a point on which I will be responding to the Chief Minister, perhaps outside this House.

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Mr Speaker: Good idea.

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**New port building
Details of current works**

Clerk: Question 690, the Hon. D J Bossino.

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Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port provide details of the works which he has claimed are currently underway in respect of the new port buildings?

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

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Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Yes, Mr Speaker. I have never said that works are currently underway in respect of the new port building.

Hon. D J Bossino: Yes, I accept, Mr Speaker, that there may have been a misinterpretation on my part of what the Minister said in his Budget speech. Perhaps he can elucidate. This has relation to...

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If I pose a question by way of a supplementary in a different way, he did say that:

'Work is therefore underway to specify the requirements for a new port building.'

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Again, is he able to clarify or expand on that, of what type of work is currently underway to identify the requirements for a new port building?

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Hon. N F Costa: Mr Speaker, the hon. Gentleman is, indeed, correct when he says that he had misunderstood what I had said. What I had said is now what he has read from an excerpt of my Budget speech and the hon. Gentleman is indeed lucky that he is not asking questions from the Hon. Mrs Del Agua, because if it were not in written format and did not relate to the Question, she would never have answered them. But we are different and I shall give you the answer.

An outline specification has been prepared and submitted by the Captain of the Port. That is now under consideration by technical staff, who will prepare and cost a proper technical design.

415 **Hon. D J Bossino:** I missed the very first words in his reply. Can I indulge him further, and maybe could he repeat those words?

Hon. N F Costa: Yes, I started by saying that an outline specification has been prepared and submitted by the Captain of the Port.

420 **Hon. D J Bossino:** Mr Speaker, I am very grateful for the Minister indulging me on two occasions. Both he and I, I think, are a new breed of politician and, in that sense, if ever I am on the other side of the House, I will treat – and he is on this side of the House, I intend to treat him – likewise.

Mr Speaker, is the Minister aware that there were advanced plans and designs to build a new port building when we were last in office? I can repeat the question.

425 **Hon. N F Costa:** No, I heard it clearly.

Mr Speaker, as with the reply I gave in respect of any plans with the yacht register, I have not been made privy of any plans that may have been work-shopped by the previous administration.

430 **Hon. D J Bossino:** Presumably, the outline plans he referred to in his first reply, Mr Speaker, referred to outline plans designed when the Hon. the Minister took office.

Hon. N F Costa: Yes, Mr Speaker.

435 It may be that those plans, of which I have no knowledge, may have been prepared by either the Captain or another official. These plans to which I refer have been prepared by the current Captain of the Port, who, as he knows, took office, post rather on 27th February of this year.

440 **Workers' hostel**
Berth location

Clerk: Question 691, the Hon. D J Bossino.

445 **Hon. D J Bossino:** Can the Minister for Tourism, Public Transport and the Port, advise this House where the workers' hostel is to be berthed?

I am conscious, Mr Speaker, that there is another Question on the Order Paper which is being posed by my hon. and learned Friend, Mr Feetham, which is similar. I think *that* Question presupposes the location of the berth.

450 **Clerk:** Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

455 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, the current proposal is for the barge housing the workers' hostel to be berthed at the ferry terminal. At this moment in time, the Captain of the Port is reviewing port procedures to ensure a smooth and seamless transition in its operations once the barge arrives.

460 **Hon. D A Feetham:** Yes, Mr Speaker, may I ask the Hon. and learned Minister whether there has been a change of plan in relation to the location of the hostel because, as I understood – hence my question to the Chief Minister – the Chief Minister on a previous occasion, in answers to questions from Mr Netto, there were plans to locate it at Coaling Island and, indeed, I think that the infrastructure – some of the infrastructure – was actually laid. Can he confirm that is the case; and, if it is the case, can he perhaps enlighten this House as to why the change of plan in relation to location?

465 **Chief Minister (Hon. F R Picardo):** Mr Speaker, there is no change of plan, in the sense that plans had not been finalised for the flotel to be located at Coaling Island. Coaling Island is *one* of the potential locations. What has been the subject of analysis is wave action to try and identify where the flotel would be subject to the least possible wave action, which means that the flotel would then move the least possible. There has

certainly been no infrastructure laid to Coaling Island.

470 My understanding of the position is that Coaling Island offered the opportunity of a site, which had an element of wave action, but already had services available there; whilst the ferry terminal also offers the services and has a different sort of wave action. Of course, Mr Speaker, this – as I have said before in the context of the possibility of this flotel – is something which will be very much a temporary provision.

475 The hon. Gentleman will know that, as part of one of the property transactions involving the previous administration, for which we are happy to give credit, the hon. Gentleman, the Chief Minister, agreed to move the Moroccan workers presently at the Buena Vista Hostel out of that facility so that the developer could take over the hostel and produce there some housing scheme. The deadline for achieving that was 30th June – and I believe I have explained this in the House in answers to Mr Netto. Now not a brick had been laid to establish a new workers' hostel by that time. I know that the hon. Members had one site in question that then, I think, was affected by the 'modern curse', if I might call it that, of rights to light, which restricted some of the building pattern that could go on on that site – I am talking about the 'Readymix' site. I do not know whether that is something that the hon. Gentleman recognised, but that that may have been, or perhaps some other reason, why the development of a new hostel was delayed.

480 So the Government, therefore, finds itself in the situation where it has to hand over possession of the Buena Vista block – *vacant* possession, of course – and has to put these Moroccan workers – I think they are all Moroccan workers, but there may be one or two who are not Moroccan workers – in an alternative site.

485 Absent the new hostel, a temporary location has to be found. Gibraltar being Gibraltar, it is almost impossible to find another location: therefore, this is potentially the only temporary way whilst a hostel is developed in the shortest period of time. The essential thing – and this is where I think the question from the hon. Member, Mr Netto, came from – is we all agree. We need to ensure that this is as comfortable a temporary solution as possible. Hence, the analysis of different areas where the flotel hostel could be located so that there is the least wave action possible – and the ferry terminal is one that the Captain of the Port identified. I am happy to tell the hon. Members what the other sites we considered were.

490 One of them is the extension jetty, where there is not much wave action, but the state of the extension jetty is such that it is difficult to see whether it could hold for the period necessary. And, of course, the security issues at the port would mean that access for workers... not all of whom have security clearance. Some of them do, because they work for the MOD and some of them work in the port, but they would all have to have security clearance to access the flotel through the extension jetty, so that created other issues. This potential site, as a temporary site, creates a potential area where the flotel would be subject to the least possible wave action and which has the services. Hence the need to explore all of these potential sites.

500 The other alternative would be, for example, in the south-western corner of the area of Gibdock, which would involve having to agree with Gibdock a location there.

505 Buena Vista is quite a way out for gentlemen who, principally, do not have their own means of transport and walk or take the bus, and this would be further out than the ferry terminal and would require an arrangement with Gibdock, which would take up some of their valuable berthing space which they commercialise. Hence the analysis by those who understand wave actions etc, etc, of the different potential sites for the flotel.

Hon. D A Feetham: Yes, so effectively, the decision has been based on wave action.

510 The last time that we touched upon this particular issue, he only mentioned Coaling Island. He did not mention any of the other sites – but have there also been any representations from people operating in the Coaling Island vicinity as to the siting of the hostel in that area and did that play an additional part in the decision as to not locating it there and locating it in the port area, or was it just simply this question of wave action and there being a potential problem with this site in relation to wave action?

515 **Hon. Chief Minister:** There is nobody operating the area of Coaling Island whose representations would, I think, have been relevant to this.

520 The hon. Gentleman will know that the people there are the Royal Gibraltar Yacht Club, whose representations in this respect have not been received – they have not made any objection. The Community Mental Health and the Camber Boat Owners... At present there is a Steel Mac vessel there which has some pollution emergency and fire emergency material there which was allocated to them by the previous administration, and other operators, most of whom, as I understand it, are awaiting the finalisation, if that is possible, of the Western Beach reclamation so that they can be relocated there.

None of those, as far as I know, have made any representations to any part of the Government in order to influence this and the hon. Gentleman should take it as read that the issue here is the wave action –

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Hon. D A Feetham: That is what I asked.

Hon. Chief Minister: – and the importance here is that it is impossible to *anchor* a flotel because... I mean you anchor it, but you cannot anchor it and... I mean a flotel does not become a reclamation. It is still a vessel and subject, potentially, to some element of movement and therefore wave action is relevant and because we, I hope, all agree – and no doubt all agree – need to make this as comfortable a process as possible for those who will inhabit that flotel.

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Insofar as possible, it should not move, and therefore wave action is the relevant point, and the people who know more about that are the people in the ports, rather than the Ministers.

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Clerk: Question 6...

Mr Speaker: The Hon. Jaime Netto.

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Hon. J J Netto: Mr Speaker, I would just like to ask the Hon. Minister – perhaps he may even have given information whilst I was outside the Chamber – but does he have a target date when he thinks that this particular hotel, workers' hostel, is going to be berthed in the ferry terminal? Is there a date available, or approximate date?

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Hon. Chief Minister: Mr Speaker, this matter is not being handled by the hon. Gentleman and that is why I am getting up to respond. It is being handled by me, although because he is the Minister for the port, where it is berthed, will be relevant to him.

Mr Speaker, the flotel is still being prepared to come to Gibraltar. It is not yet, as far as I understand it, *en route*. We are not in control of that process because we have no commitment in respect of the flotel until it arrives in Gibraltar, but we are seeking that it should arrive as soon as possible because of the Government's contractual commitment, which I have just alluded to in respect of the handing over the stone block, and because – I think the hon. Member may not want to agree with me – but the conditions of the stone block are really pretty awful.

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I have been there on two occasions since I was elected and it is not a place where people would want to be living, even if all they are doing is putting their head down for the night whilst they are working. People, essentially, finish work at five or thereafter and spend a lot of their day there during the week when they are not with their relatives at the weekend and it is a pretty awful place to have to live. It is pretty embarrassing that we are putting people in that place and, therefore, the flotel, Mr Speaker, actually, will be a much better accommodation and, hopefully, a stepping stone to even better accommodation when the modern facility is developed.

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So the answer is, Mr Speaker, the Government is doing everything possible to bring about the arrival of the flotel and its availability for use as soon as possible. I am not going to be able to give him a date today, but we are working on having a date available.

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Hon. J J Netto: I am obliged, Mr Speaker, but could I also ask the Chief Minister – given that he is handling this particular item – what is the room capacity of the hotel?

Hon. Chief Minister: Mr Speaker, I cannot tell him the exact room capacity because although it is about... I think it is 230 rooms as presently configured. That configuration is part of what may change, depending on what availability or what requirement for rooms we have and, of course, this potentially can house people who are not already tenants of the Government at either of the two workers' hostels and the type of configuration of room can change –

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Hon. J J Netto: If the hon. Member would give way, I was not referring to how many workers are residing in the current hostel in Gibraltar. What I was referring to is what room capacity does the ship – if it is going to turn out to be a hotel – what room capacity it has?

575

Hon. Chief Minister: The issue, Mr Speaker, is what the configuration of the bedrooms will be when the refurbishment of the facility is finalised.

580 Per individual, it could take up to approximately 550 people, doubling up in bedrooms. It could take approximately half if you were to stick one to a bedroom. It could take more if you were to restructure the bedrooms.

585 We are not talking about a facility that has brick walls, of course. These are moveable walls, in the sense that you can refurbish the facility and we are talking to the two Moroccan Workers' Associations about this potential and, therefore, I do not want to be committed to what it is that they can offer because we are trying to *maximise* what they can offer, subject to what it is that they want each room to provide for, and he will have the same feedback that I have. Some people are happy to have a partner in a room – they are quite happy to share a room and have two beds in the room. Some people would prefer to have a single room, but they do not need it to be as big as the rooms that have two beds in them.

590 So that is why we are playing around with the configuration, in order to assist in providing the type of configuration that the workers, the relevant workers, want.

Hon. J J Netto: But in order to determine the configuration, then, is the Government conducting some sort of a survey of the Moroccan workers at the moment as to whether they prefer living with another person or not, so that that information can then be placed to any changes in the refurbishment works?

Hon. Chief Minister: Yes, Mr Speaker, through the Moroccan Community Association, in particular, who are giving us the feedback of how many would prefer what type of room, that is the sort of work that is going on at the moment.

600 I do not think this is hugely difficult, by the way, and therefore it should be fairly easy to ensure that everybody can be accommodated more or less as they wish.

Hon. D J Bossino: Mr Speaker, as the drafter of the original Question, given that we are homing in on some of the detail – and I do appreciate, Mr Speaker, that we have digressed somewhat from the original question – but I do pick up on one point that the Chief Minister made in response to one of the questions from my hon. colleagues, which is that the vessel is, in fact, not on its way to Gibraltar.

605 That is not quite what the *Chronicle*... it was not a Government press statement, I think it was a *Chronicle* report said recently, in that particular newspaper... but it also reports that the vessel – just so I can visualise what it is that is going to end up at the ferry terminal – is the *Bibby Kalmar*, which is the sister vessel to the *Bibby Altona*, which is the one which was pictured in the press report I have just referred to. Is it that vessel? Does the Chief Minister know that?

Hon. Chief Minister: Yes, Mr Speaker, it is that vessel and, of course, Mr Speaker, we are not responsible for what the *Chronicle* publishes. (*Interjection*)

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**Gibraltar Bus Company
Appointment of director/manager**

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Clerk: Question 692, the Hon. D J Bossino.

Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port advise this House whether the post of director/manager of the Gibraltar Bus Company Limited has been filled?

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Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, yes, sir. The post was opened internally on 2nd May 2012, with a closing date of 11th May. Three applications were received in total.

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As a result of the recommendations of the interview board, it was decided to divide the position of general manager into two posts: one manager to be responsible for operations and another for administration. The

posts were filled from the internal applicants.

635 The advertised post for general manager carried a salary of £45,000. The salary attributable to the new general managers was calculated taking the difference between *their* salary and the advertised pay and splitting *this* difference in half amongst both employees. Gibraltar Bus Company, therefore, now has two specialised managers for the price of one.

640 **Hon. D J Bossino:** Mr Speaker, can I ask the Minister what, in fact, the salary is, because I know he has given me the basis of the equation and the calculation which was carried out, but obviously without the base figures I am not able to do the calculation myself? So I would be grateful if he could give me that information.

Hon. N F Costa: Yes, of course. The basic wages are £35,000.

645 **Hon. D J Bossino:** I see. They are each getting £35,000, as opposed to what?

Hon. N F Costa: As a result of –

650 **Hon. D J Bossino:** As a result of that calculation. So, if my maths is correct, it is a £70,000 expenditure for the Bus Company in respect of both positions.

Hon. N F Costa: Well, remember that these are already *existing* posts. He has not brought anyone else in from the outside. (*Interjection*) Yes.

655 **Clerk:** Question –

Hon. D J Bossino: I am grateful.

660 Mr Speaker, he says that the applicants were three employees working within the Bus Company. Is he able to tell this House which positions the successful applicants held *prior* to the positions being filled?

Hon. N F Costa: Mr Speaker, I do not have that information in front of me. I don't think... Perhaps if the hon. Gentleman were to indulge me for just one second to see whether I do have it.

665 Yes, one of the successful applicants was an office administrator and the other person was originally employed as a bus driver, although I am quite sure that by the time he was successful he was a chargehand, but that is not in the information in front, that is working from memory.

Hon. D J Bossino: Mr Speaker, I am somewhat surprised by the answer because from the position of – I think... is it office 'chargehand' did he say?

670 **Hon. N F Costa:** Chargehand.

Hon. D J Bossino: – Chargehand, and the other successful applicant was a bus driver, (*Interjection*) to the dizzy heights... oh, that –

675 **Hon. N F Costa:** Sorry, Mr Speaker, if the hon. Gentleman will just give way for a second? The second successful applicant was *originally* a bus driver; but, as I said, from memory, I am quite sure that by the time he interviewed for this post he was already a chargehand. He was no longer working as a driver.

680 **Hon. D J Bossino:** For the purpose of clarification, and the other applicant?

Hon. N F Costa: Office administrator.

685 **Hon. D J Bossino:** Office Administrator. Mr Speaker, is the Minister satisfied – given that he has political responsibility for that particular company – that the successful applicants have the requisite experience and knowledge to run a company of this nature?

Hon. N F Costa: Well, Mr Speaker, I remind the hon. Gentleman that the two persons that were originally

recruited by the GSD were police officers that went over to a bus company. I am not entirely sure what experience exactly *they* had of running a bus company.

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Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): None at all!

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Hon. N F Costa: In the second place, Mr Speaker, these are people who have been working within the company since 2004. Therefore, they have two employees who may well have been at the middle (*Interjection by Hon. G H Licudi: You do not have to justify*) – no, no – who may have been... well, at the middle rung, but they had been employees of the company since 2004, and the most important point, Mr Speaker, is that he must bear in mind that I simply accept the recommendations made to me by the interview board and those are the people who were recommended to me by (*Laughter*) – I do not know why the Hon. the Leader of the Opposition laughs at this. I actually accept the recommendations of the board. I have it here in writing, and it says that two of the candidates were found suitable and therefore recommended them to me. (*Interjections*)

700

Sir, and may I say that it gives me particular pride to be able to say that people who start at any particular rung of any company should be able to go to the very top. That, I believe, sir, is fair enough (*Interjection*) and we find it much (*Interjections*) And we find it (*Interjections*)

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Mr Speaker: Order! Order! The Hon. Minister is answering.

710

Hon. N F Costa: And we find it much preferable to having people who have started at a lower rung coming *up* that particular rung, rather than parachuting pensioners, who already have a pension, dropped into as political appointments with no notification of vacancy! (*Applause*)

715

Hon. D J Bossino: Clearly, once again, each time I ask questions on the Gibraltar Bus Company it seems to ruffle some feathers, and the Minister of Justice ought to calm down (*Laughter*) and allow the Minister for Transport to answer the questions that I am posing from him. (*Interjections*)

Mr Speaker: Order! Order! (*Interjections*)

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Hon. G H Licudi: It is totally inappropriate for the hon. Member to give instructions to me to calm down or otherwise. He is here to ask questions. We are here to answer.

What is also totally inappropriate is that the hon. Members should appear to find it totally objectionable that somebody who starts as a bus driver ends up as a manager. (**A Member:** Hear, hear.) (*Interjections*) Good on that person! (**Members:** Hear, hear.) (*Applause*)

725

Mr Speaker: Order! Order!

It is not entirely out of order for a Member, in posing his question or addressing this House, to refer to another Member, as the Hon. Damon Bossino has done. Perhaps the Minister for Justice should not be so sensitive. (*Interjections*)

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Hon. P R Caruana: With respect, Mr Speaker, the thrust of the questions are –

Mr Speaker: I think we will close that subject.
Is there a Point of Order there?

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Hon. P R Caruana: Well, Mr Speaker, it is not a Point of Order, we do not want to close the subject, we would rather hold the Government to account.

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Mr Speaker, does the hon. Member not accept that the question is not whether a person is free to rise from relatively humble occupations to much higher offices – we have seen how easy that is do-able – but how quickly, and in how many simple steps they arrive at that office? So it is not a question of whether he was once a bus driver, and he now isn't. The question is how long ago was he a bus driver and how long has it taken him to go from bus driver, through chargehand, to the position to which he has now been promoted? Would the hon. Member care to identify the individuals in question?

Hon. N F Costa: Mr Speaker.

745 **Mr Speaker:** Before the hon. Member answers, when I said we will close the subject, I was referring to the subject of the Hon. Minister for Justice's intervention. (*Interjections*) Well, I appreciate that, but the Hon. Damon Bossino was in the middle of his question and I imagine he has no objection to giving way to his (*Interjection*) –

750 **A Member:** Supreme –

Mr Speaker: Well, in that case –

755 **Hon. G H Licudi:** Supreme leader!

Mr Speaker: – I call on the Hon. Minister.

760 **Hon. N F Costa:** Mr Speaker, no. I cannot agree with the hon. Gentleman because he prefaced his question by saying that he finds it astonishing that a bus driver should have elevated himself to the position of general manager. (*Interjection by Hon. P R Caruana*) No, you did not, but your hon. colleague did. So, therefore, I cannot accept the premise of his question.

765 This gentleman has been, as I said... and perhaps if he had been listening to me, Mr Speaker, he would have heard me say in my reply to the supplementary that he was there, this gentleman has been there since 2004. (*Interjection*) So from 2004 to 2012 he has been working as a bus driver and, subsequently, as I said from recollection, as a chargehand.

770 Mr Speaker, the point I want to make is as follows. In our view, it makes perfect sense that people who start at any particular lower rung of a company should go all the way up to general manager's position and is infinitely better than parachuting people who are retired and have absolutely no experience of running a bus company, with no notification of vacancy and contrary against the Employment Regulations of 1994. (**A Member:** Hear, hear.) (*Applause*)

Hon. P R Caruana: Yes, Mr Speaker, of course.

775 Would the hon. Member accept that it is perfectly possible for somebody to rise from the ranks of bus drivers – not that that is such an unworthy occupation, but still they seem to be determined to play it down – to the ranks to which he has now raised? That is not the issue.

Mr Speaker, there are people who have risen from much lowlier jobs than that to much loftier posts than the ones we are now discussing. That is not the issue. The issue is how quickly is it *reasonable* for somebody to have risen from bus driver to the position being discussed in just eight years –

780 **A Member:** Eight years.

Hon. P R Caruana: – coming from nowhere. Coming from nowhere.

785 Will the hon. Member identify who these people are so that we can be absolutely clear that there is *no basis* for that rapid ascension, other than the absolute merit and qualification of the individual to run the bus company?

790 **Chief Minister (Hon. F R Picardo):** Yes, Mr Speaker, of course it is appropriate for people to rise from bus driver, or any other post, to higher office. Mr Speaker, of course it is, and that is what we on this side of the House are all for: equal opportunities, Mr Speaker.

Mr Speaker, I am delighted to say that I started as a messenger in a well-known local law firm and I have ended up as Chief Minister. But there are people sitting around this table who, on 7th December, were taxi drivers, and on the 9th were Government Ministers.

795 Mr Speaker (*Interjection*) the issue is not to analyse the career path of an individual, but that the hon. Gentleman should be saying to us, 'Well done for accepting the recommendations of a board,' because what the hon. Gentleman is impugning, Mr Speaker, is the recommendations of the board in question. Not the decisions of the Minister but the recommendations of the board – perhaps, Mr Speaker, because he does not understand that that is how modern Government works. Usually it is – in his day – finding somebody who is

properly qualified, 'You are appointed because I like you,' or because of some other unknown reason.

800 Mr Speaker, in that context, we will not descend to bandying about this House the names of individuals, but if he wishes to, given that he knows who they are, he should feel free to bandy their names about. All I say, Mr Speaker, is that I am very proud of the Minister responsible who accepts the recommendations of the board, acts in accordance with the recommendations of the board and does not appoint people *a dedo*, (A Member: Hear, hear.) as used to be the case before 8th December. (*Applause*)

805 **Hon. P R Caruana:** Mr Speaker, the hon. Member surely must acknowledge that when the hon. Members elevate rapidly to these posts, people who are well-known and well-documented activists –

Hon. Chief Minister: A Point of Order, Mr Speaker. On a Point of Order, Mr Speaker. (*Interjection*)
On a Point of Order, Mr Speaker.

810 The hon. Gentleman has been told *repeatedly* – and if he wants to challenge it, he should challenge it, Mr Speaker, but he should not try and do so *cowardly* from behind – that the Hon. Minister has not elevated *anyone*. A board was established and the board made recommendations and the Minister accepted the recommendations of the board, Mr Speaker. If he wants to impugn the board, he should do so; but the Point of Order is clear, Mr Speaker: he cannot say that the Minister has 'elevated' people if all he has done is subject himself to the recommendations of the board.

815 **Hon. P R Caruana:** This is the same board that immediately after the Election recommended the company to collapse its case against Mr Sardeña – presumably, the same board.
820 Look, Mr Speaker, the hon. Member (*Interjections*) –

Mr Speaker: Order! Order!

Hon. N F Costa: Mr Speaker, on a Point of Order, I have to challenge the hon. Gentleman –

825 **Mr Speaker:** Order! (*Interjections*) Order, Order.
I know what the problem is. Perhaps the Hon. Leader of the Opposition would proceed with his question, but in two parts. One is, is he asking whether it is the same board that advised the Minister to discontinue the case or whatever it is... because I think that is a preface to the next question.

830 **Hon. P R Caruana:** Mr Speaker, my question is this: does the hon. Member not understand that he strains the patience and credibility, he strains the patience of the electorate in Gibraltar and his own credibility if he is expecting people in Gibraltar – because I do not accept – that all the people who have suddenly, post-9th December, with no political allegiances, arrived in positions into which they have arrived, that that is all the coincidental result of *independent, independently* selected, *independently* adjudicating boards. If *that* is what he is asking this side of the House to accept, know there, opposite, that we do not accept any such fairytale!

835 **Hon. Chief Minister:** Mr Speaker, we note that the Hon. the Leader of the Opposition impugns the boards that have made the appointments (*Interjection by Hon. P R Caruana*) to which he refers... Mr Speaker, he needs to *shut up* and listen!

840 **Mr Speaker:** Order. Order. Order. (*Interjections*)

845 **Hon. Chief Minister:** That the Hon. the Leader of the Opposition impugns the integrity of the Boards that have made the appointments that he challenges, *most* of which have been made by Boards established by the Public Services Commission of Gibraltar. Let *that* test the patience of the electorate, Mr Speaker, and let the electorate look back to what happened before 8th December 2011.

850 Let the electorate look back at all the appointments that were made on the whim and the fancy of the occupant then of No. 6 Convent Place. Let the electorate have its patience tested by all the information to be put into the public domain that reflects all of this, Mr Speaker, and then let this Government always act, Mr Speaker, in keeping with recommendations of properly established independent boards, whose credibility *we* do not believe is impugnable.

855 **Hon. P R Caruana:** Will the hon. Member answer my question? Does he accept that these appointees, whoever he claims they were appointed by and by whatever process he claims they were appointed, Mr Speaker, which he knows we do not accept, will he accept that they are well-known activists of his party? (*Interjections*)

Hon. N F Costa: No. Absolutely not.

860 **Hon. Chief Minister:** Mr Speaker, under this Government (*Interjection*) anyone can apply for any job: activist of the GSD; (*Interjection*) activist of the GSLP; of the Liberal Party; and even old activists of the Labour Party, Mr Speaker. They all stand as much of a chance as an independent board will give them. (*Laughter*) And if he wants, Mr Speaker, that we *draw up a list*, that we draw up a list with the names of GSD
865 activists who have achieved office in any particular post in the past 20 years and of the GSLP activists who have achieved that in the past 20 years, and we look at when it happened, Mr Speaker, he will find that the only person testing the patience of the electorate is he himself.

870 Mr Speaker, I am going to be too prudent to actually mention in this House the names that he knows I can mention and the relatives of his that he knows I can mention that found themselves elevated to high office without boards to do so, where the only person whose credibility is impugned is his, as the person who appointed them. (*Applause*)

Hon. P R Caruana: The hon. Member is willing to do so. He suggests – he makes statements in this House – as if it is a *fait accompli* that any of the things that he is suggesting I used to do, (*Interjection by Hon. Chief Minister*) I did – and he is welcome to publish as many lists as he wants!

875 I can tell you that, in the 16 years I was in office, I did not elevate *anybody* to any post, (*Interjection*) either on my own decision, nor did I allow anybody or any board that I had contrived for the purpose to elevate somebody to a post to which they are plainly not prepared, on the basis of their party card carrying allegiance. (*Interjections*)

880 **Mr Speaker:** Order! Order! Order! (*Interjections*)
There was no question over there to the...

885 **Hon. Chief Minister:** No, Mr Speaker, but the hon. Gentleman knows that what he is saying is just not true. He will know, Mr Speaker. He will know what I found on the day that I arrived at No. 6 Convent Place. He will know who was in what post and how many of them had been put there by a board or by him. And he will know, Mr Speaker, who they were and who they supported; and he will know, Mr Speaker, that they have all been treated fairly, despite that.

890 So, Mr Speaker, everything that he has said is not just refuted by this administration; *it is not true*. And the public knows, Mr Speaker. He is trying to climb Everest without oxygen if he wants people to believe that under *his* administration, everybody got a fair crack of the whip, as they do now, because under him, Mr Speaker, it mattered more who you were and who you supported than what you could do.

Today, Mr Speaker, all that matters is what an independent panel assesses you are able to do and recommends to Ministers. That is the way that Western democracies should work – not as we were working, Mr Speaker, before 8th December 2011.

895 The dark days of appointments at the whim of the man at 6 Convent Place are *over*.

A Member: Hear, hear. (*Applause*)

900 **Hon. P R Caruana:** Mr Speaker, just for the record, let me tell the hon. Member that I do believe exactly what he says is not the case – in other words, it was in the days of the GSD that everybody had a fair crack of the whip and it is in the days... it is since 9th December that known GSD supporters are shunted about and that known GSLP supporters are suddenly elevated and parachuted into offices, including ministerial offices. That is what I am saying. I am telling him that he is *saying* one thing and *doing* the opposite, (*Applause*) as is typical of his political style. (*Applause*) That was what I am saying to him.

905 It is the position of the Opposition that he says the right things to persuade people that he is the paragon of Western democratic virtue, whilst *actually* permitting his Government and his Ministers to do the opposite. That is what I am saying to the hon. Member, and the evidence out there on the street is *absolutely legion* for

it. It is not just me who is saying or thinking it, Mr Speaker. It is not just me that is saying it or thinking it.

910 The question is that he has not yet answered my question, unless I should interpret the answer to be that, because he thinks that I used to do it, that he is doing it now and he justifies it on the basis that he is doing no different from what I was doing.

915 The question was are these individuals well known activists of the GSLP, to which the answer was ‘If he wants a list of the GSD activists that *he* elevated when he was in office...’ – well, I deny that. But even if he was right, why is he imitating what he regards is the Darth Vader of Western European politics? Why is he imitating me? He should be saying, ‘No, it was the case then and it is no longer the case now, because these people are not this or are not that’.

Hon. Chief Minister: Mr Speaker, the hon. Gentleman’s statements remind one of what the male cow does in the field when nobody is looking. (*Laughter*)

920 Look, how can he say that he was the paragon of Western democratic governments, (*Interjection by Hon. P R Caruana*) when he used to call two meetings of the House in an election year and three in a year when it was not an election, and we come here once a month?

925 How can he say that, Mr Speaker, *in relation to appointments in particular*, when under *his* administration, the individuals that were appointed to different posts – most of them are the most highly paid – were also appointed because of who they supported politically?

Look, Mr Speaker, I know that he wants to make the point as loudly as possible, but ‘the lady doth protest too much’. He is saying it and saying it, because he knows that he is fighting a battle against the truth – the truth that is so self-evident that I do not need to tell the public the names of the individuals in question, because they all know who they are. *Some of them are his closest relatives!*

930 Yet, Mr Speaker, he says: are these two people activists of the GSLP? Mr Speaker, I can give him an assurance that these people are not members of the executive of the GSLP or of the Liberal Party. These individuals, as far as I know, (*Interjection*) are not registered activists of the GSLP (*Interjections*) (**A Member:** Registered!) These individuals, Mr Speaker, may, like so many others in Gibraltar, have realised that the policies we defended at the last election are the ones that are best for Gibraltar. If they have said so, Mr Speaker, they do not in that way exclude themselves from any potential promotion, as the hon. Gentleman suggests that they should – of course, Mr Speaker, now trying to make a virtue that he did not identify at the time that he was at Convent Place appointing relative *x* and mate *y* and friend *w* and *este amiguito* here and there to the best and cushiest jobs in Gibraltar at the expense of the taxpayer. *That*, Mr Speaker, is *over* and it will never come back, Mr Speaker, because people are never going to allow him the opportunity of doing with the money of the taxpayer of Gibraltar that which he did before 8th December – spread it out amongst friends and supporters. That is *definitely over*.

940 If a Minister accepts the recommendations of a properly appointed board, he is doing the right thing, Mr Speaker – not looking at the political colour of the appointee, not starting the process, Mr Speaker, by who is it that applies and who is it that they support.

945 Or is it that he has forgotten, Mr Speaker, how he disqualified people after 1996, simply because of who they might have supported? Because if he thinks, Mr Speaker, that by repeating this poppycock he can get the public to forget, he has got something else coming! (*Applause*)

950 **Hon. P R Caruana:** Well, Mr Speaker, on a Point of Order, and to wrap this debate up, (*Interjection*) it has become fashionable for the hon. Member to say that I spent 15½ years in Government feathering the beds and the nests of – to quote him – ‘many close relatives’. I suppose he is referring to one close relative, Mr Armstrong; but as he has chosen to use the plural, I put it to him that he is now obliged to give me the list of the close relatives, in the plural, that he thinks I have advanced, through my own decision or in whose advancement he believes I have, during the whole of the 15½ years that I was in office, participated, and who are these *amiguitos*, as he calls them, that I have put in these elevated posts without board, without decision, simply on the basis that they were either my friends or my... He either now gives that list or accepts that he is making himself responsible for statements that he knows to be false. I am telling him now, in advance of his answer, that he is not telling the truth, that what he is saying is simply *untrue*.

960 To demonstrate that it is true, he has to give the names – not *threaten* to give the names but not give them, thereby getting the benefit of the political points without actually having to be assessed for truth. He should *state* the list of names that he thinks exists, and which I in advance refute, but let him take responsibility for his statements. Name the people – in other words, put up or shut up, which I understand is an unusually

courageous condition for the hon. Member to live by.

965 **Hon. Chief Minister:** Mr Speaker, the hon. Gentleman is foolish enough to think that he is the one who determines when debates are over and how they should be determined.

Hon. P R Caruana: As I raised a Point of Order.

970 **Hon. Chief Minister:** Mr Speaker, he is foolish to think that –

Hon. P R Caruana: I raised a Point of Order.

975 **Hon. Chief Minister:** And I am replying to the Point of Order, Mr Speaker – and he needs to listen whilst I reply.

The hon. Gentleman is foolish enough to think that he decides when a debate is over and when it is not. That, Mr Speaker, is not a valid Point of Order. It is a political point, Mr Speaker.

980 **Hon. P R Caruana:** That has not been ruled.

985 **Hon. Chief Minister:** It is a political point, Mr Speaker, to which I will answer politically as follows. Look, I am happy to give him the list. He knows what the list is but, as he prompts me so much, Mr Speaker, I am delighted to take him through it if he likes. Mr Speaker, he should look at the list of all his brothers-in-law and all the advantages that *they* obtained whilst he was in office for 15½ years – *all* of his brothers-in-law, Mr Speaker. He should have an opportunity to analyse exactly all the advantages that they took and then he should look, Mr Speaker, at some of the advantages that some of his Ministers took, whilst he was in office and some of the deals that feathered their nests and then he should look, Mr Speaker, at some of what his party supporters achieved – some of them elevated well beyond offices and some of them given deals, as insurance, I understand, in the last month of the administration, elevating them well beyond where they should be, up a class and a class.

990 I think I have identified them sufficiently, Mr Speaker, and if he wants to look at his friends, he should look at our press release of some weeks ago, showing how we have determined some of the consultancy agreements that were granted outside of European law and how those millions of pounds have flowed outside what we say was the EU procurement procedure. There, Mr Speaker, is the list, and now, with that list... If he wants I can put the names to it. I have already told him who they are and identified them sufficiently for everyone in this Chamber to know who they are, both the people on the opposite benches and the people in the public gallery and the people outside, *then* he can try and defend his *abysmal* record on fairness, the way that he has used taxpayers' money for those around him to have a better deal and, perhaps, Mr Speaker, people will then understand why it is that their nails clawed to try and stay in 6 Convent Place on 9th
1000 December, so that they could continue the abuse.

1005 **Hon. P R Caruana:** Mr Speaker, if *this* is the basis upon which the hon. Member conducts the relations of the Government of Gibraltar with other governments, it is little wonder that he has taken Gibraltar, in a record short period of time, to the crisis in which he is at... Is this the extent of the man's intellectual grasp of the issues beforehand or does he give this bluster approach to all the people that he interlocks with or just us?

1010 I have raised the Point of Order. He has said in this House that *I* have used *my* office to elevate to high offices and to expensive high salaried posts members of my family – several. I have asked him, *twice* already, to state the names. If he *refuses*, then he has made an improper statement, imputing to me improper motives for which he refuses to provide details, Mr Speaker. This is a *flagrant* violation of the responsibility that he has for his behaviour in this House. I have not asked him – we can have a debate about that, too – all the people that he thinks have benefited contractually from Government contracts and all the other corruption and nepotism that he thinks I have been involved in with people that he now entertains in his office and perhaps even has lunch with. I am asking him specifically (*Interjections*) about his statement about my using my office to elevate and promote people to posts on the basis... who are members of my family, to all these high
1015 posts. He either withdraws it, I would have thought, or illustrates it. If he continues to refuse to illustrate the point, then people will know that what I am saying is true, and that is that he is repeatedly not only failing to adhere to the truth but that he is repeatedly making statements which he knows to be untrue.

1020 This is nothing to do with EU tenders; it is nothing to do with Government contracts. We can have that separate debate. We were talking about the promotion of individuals to posts. *That* is the statement that he made and that is the statement to which his answer must relate, Mr Speaker, I would have thought.

1025 **Hon. Chief Minister:** Mr Speaker, I said on a number of occasions both that he had promoted his relatives and his supporters to posts and that he had feathered their nests, and he came back and answered some of that. The *Hansard* will show, Mr Speaker, what I said and what he said. I have told him who those relatives are, Mr Speaker. (*Interjection by Hon. P R Caruana*) I have told him to look amongst the canon of his brothers-in-law. He can do that if he likes, Mr Speaker, and if he wants me to give the exact names, I can give the exact names. I do not think it is appropriate to do that. They have already been properly identified, Mr Speaker.

1030 So the position is very clear. He asked me to put up or shut up, and I put up; and when I put up, Mr Speaker, all he can do is say, 'Ah, but that's not a post, that's a contract – that's feathering their nests in this way, not in this other way.' Mr Speaker, the fact of the matter is that this happened before 8th December, he *knows* it happened before 8th December, and he does not know how to get himself off the hook. He has got to stop wriggling, Mr Speaker. I do not know whether he is just jealous of the fact that some people who used to do business with him continue to do business with this Government, because I do not tend to have lunch with people other than people who are doing business with the Government because I try and use every possible minute for the purposes of making the Government's programme advance, but I do not think that is at all relevant to this. The issue has, I think, been very clear and ventilated clearly. When he goes back, Mr Speaker, and he looks at *Hansard*, he will understand that he got it wrong.

1040 **Mr Speaker:** I think I must... I should rule on this.

1045 **Hon. P R Caruana:** No, Mr Speaker, what will be clear from his answer is that he is compounding his sin. Far from *me* wriggling, Mr Speaker, it is clear that the only one wriggling here is *him*. How can it be called wriggling to ask for particulars of serious insinuations which can only be believed if they are particularised? So now people believe that all my brothers-in-law – plural, because I have one, two, three, four brothers-in-law on my side... Who is he talking about? So I suppose now the record stands *me* wriggling and him being as *clear* as daylight (*Laughter*) by suggesting that he has sufficiently explained to me who are all these family members that I have feathered the nests of by promoting them to some of the most highly paid jobs in Government by telling me to, quote: 'Look at all your brothers-in-law.'

1050 Well, Mr Speaker, as far as I am aware, I only have one brother-in-law who works in the Government or has *ever* worked in the Government, so the only one who is wriggling, the only one who is being his usual self, the only one who is showing in this House today why Gibraltar's affairs, particularly international affairs, are in the mess that they are, is *him*, Mr Speaker. He has made a very serious allegation against me in this House, which I tell him is untrue, and if it were not because of the Rules of Parliament preventing me, I would tell him that he is a liar, and when I ask him to do the right thing and tell me, so that people can gauge for themselves whether his allegations are right and fair or not, as I say they are not, he refuses to tell me who are the names of these members of my family that I have appointed to high posts.

1055 Mr Speaker, I would just invite you to consider what the ruling might be if a Member of *this* side of the House made a similar allegation about a Member on *that* side of the House. Indeed, we have had much less serious allegations of that sort since 9th December and Mr Speaker knows the position he has taken.

1060 **Mr Speaker:** I would like to rule on this matter, if I may.

1065 **Hon. Chief Minister:** If I may just reply, because the hon. Gentleman has said a number of things.

Mr Speaker: A very brief reply because I think we have gone over the ground several times now.

1070 **Hon. Chief Minister:** Yes, indeed, Mr Speaker. The hon. Gentleman needs to go back to *Hansard* because he will see exactly what I said about which brothers-in-law and other things. He needs to go back to *Hansard* because I think he has got a little bit upset, he has got a little bit nervous and he is forgetting. Perhaps it is the post-Government, post-office dementia setting in. He needs to analyse what was said and then he will understand who I am talking about and what I

am saying about each of them.

1075 The hon. Gentleman has said that this explains why the affairs of Gibraltar are in such a mess internationally. Mr Speaker, that analysis is his own and it is self serving, and of course he would want to say that. The international affairs of Gibraltar have only been in a mess in 2002, when we had a Chief Minister who said to a Minister for Europe that he might consider an Andorra-style solution for Gibraltar, (*Interjection*) which he said did not mean joint sovereignty but the Minister obviously interpreted that and launched the joint sovereignty proposals. (*Interjections*)

1080 The international affairs of Gibraltar have only been in a mess – (*Interjections*)

Mr Speaker: Order! Order! Order!

1085 There was reference by the Hon. Leader of the Opposition to the conduct by the Government of its foreign affairs.

Hon. P R Caruana: It was in answer to my –

1090 **Hon. Chief Minister:** So, Mr Speaker, the international affairs of Gibraltar have only been in a mess in 2002 and since then when we had a Chief Minister who was saying to UK Ministers that he would consider Andorra-style solutions, and in particular, Mr Speaker, in December 2010 when that same Chief Minister went to Seville and said there that he might ‘Um, ah, um, maybe one day, ah, um, um, maybe’ consider recommending ‘perhaps one day, maybe,’ an Andorra-style solution to the people of Gibraltar in a referendum.

1095 *That*, Mr Speaker, is what rendered the international affairs of Gibraltar a mess and, Mr Speaker, doing agreements with people outside of Gibraltar that they should be able not to respect the laws of Gibraltar but do what they like whilst the laws are applied to the people of Gibraltar in Gibraltar. *That*, Mr Speaker, is a mess –

1100 **Mr Speaker:** Order!

Hon. Chief Minister: – of the highest order that one is left to untangle without having to call upon one’s family in Government to assist or give one’s friends or supporters jobs *a dedo*.

1105 **Mr Speaker:** Okay, I think I really must rule on this matter now. What started off as a fairly narrow Question as to the suitability of circumstances in which managers of the bus company were appointed has now digressed considerably into conduct of both the present and the previous administrations’ appointments of individuals, purportedly supporters, activists, and then it has gone on to family members and friends. We have digressed way beyond the Question.

1110 It is not proper in the course of parliamentary Questions and answers to bring in, drag into the proceedings of the House individuals who have no say in the conduct of either Government business or Opposition business, or indeed any other business. These are matters which should properly be aired in a motion brought before the House, where both sides know exactly what is to be debated and both sides can come armed with whatever information and evidence they see fit.

1115 The Hon. Leader of the Opposition mentioned one particular individual who I think, Gibraltar being what it is, we all know is a member of his family, and he asked, invited or challenged the Chief Minister to name the other members of his family who are alleged to have benefited from *his* largesse.

Hon. P R Caruana: No! We are talking about appointments, jobs.

1120 **Mr Speaker:** Well, I am paraphrasing, alright? Appointed to specific jobs.

A Member: [*Inaudible*].

1125 **Mr Speaker:** The hon. the Chief Minister responded by referring to the relationship, namely brothers-in-law of the Hon. Leader of the Opposition. Again, Gibraltar being what it is, we all know that there are several individuals who fall into that category.

The impression I got was that the allegation related to all or most of them. It would be, obviously,

1130 preferable for the individuals concerned who are said to have benefited – again, I use the word loosely and widely – to have been named, but again that is not a proper... The Question and Answer session is not a proper forum for that naming. That naming –

1135 **Hon. P R Caruana:** Mr Speaker, with the greatest of respect to the Chair, we are not talking about Question and Answer sessions, nor are we talking about largesse or benefit. I raised a Point of Order. *In this House*, a Member has stood and said that another Member, namely me, has abused his power to appoint, not benefit or extend largesse in any general sense. The *exact* words, as *Hansard* will show, are that I elevated individual members of my *close family* to some of the highest paid jobs in Government. That was the allegation, Mr Speaker. It is not true and I am entitled –

1140 **Hon. Chief Minister:** On a Point of Order, Mr Speaker.
That is exactly the point I am taking with him, Mr Speaker, in respect of *Hansard* and he needs to look back and look at *Hansard*.

1145 **Hon. P R Caruana:** Then I suggest that Mr Speaker adjourns his ruling on this until he has had an opportunity to review exactly what the hon. Member said in *Hansard*.

1150 **Hon. Chief Minister:** Mr Speaker, you can do that if you wish. I am not going to object to that. I think it is entirely appropriate that you should rule as you are ruling, and this side of the House (*Interjection by Hon. P R Caruana*) will stand, as usual, Mr Speaker, by the wisdom of your rulings, although we should all be conscious that, unfortunately, Mr Speaker, this is the last time that you are going to be ruling during Question Time.

1155 **Mr Speaker:** Anyway, I will, of course, refresh my memory with the benefit of *Hansard*, but I think I have got a fair grasp of what is being said over here. When I use the word ‘largesse’, fine, I accept I use it in broad terms but, yes, the precise allegation was in terms of appointments made by the then Chief Minister to highest office.

Hon. Chief Minister: With respect, the allegation was appointment by the Chief Minister of relatives, friends and supporters to posts.

1160 **Mr Speaker:** That is correct. That is what I understood it to be –

Hon. Chief Minister: Absolutely. Check the *Hansard*.

1165 **Mr Speaker:** – and although the Leader of the Opposition invited the Chief Minister to name names, the Hon. the Chief Minister referred to the persons who are the subject of that allegation as the ‘brothers-in-law’. As I say, this is not the place. The parties or the persons have been identified without their names having been given. I think it is not proper that names should be bandied about in this House, although we all know in Gibraltar who the class of persons referred to are.

1170 **Hon. P R Caruana:** *All* the brothers-in-law.

Mr Speaker: That is the impression I got.

1175 **Hon. P R Caruana:** And, Mr Speaker, thinks that that is a proper statement to allow a Member of this House to say, is it?

Mr Speaker: No, but – (*Interjection*) Order!

1180 **Hon. Chief Minister:** But, with respect, I would think that ‘supporters and activists’ is a proper term to take, Mr Speaker, because it identifies thousands of individuals.

Hon. P R Caruana: Everybody in this House and listening to the debate in this House knows very well

1185 that what the hon. Member the Chief Minister said was by reference to appointments to jobs, members of my family, and I have said to him the only member of my family I am aware of works is one brother-in-law, who used to be the Assistant Chief Secretary, so who are the other members of the family that I have appointed to posts?

Hon. Chief Minister: Your ruling –

1190 **Hon. P R Caruana:** This is a Point of Order, Mr Speaker.

Mr Speaker: Yes.

1195 **Hon. P R Caruana:** This is not about whether we are in Question Time, whether we are in motion time, or whether we are on our tea break. The question is whether or not, in this House, it is permissible for any Member, even if he is the Chief Minister, whom it *used* to be possible to obtain rulings against... whether it is appropriate for any Member of this House to make *serious* insinuations of that kind, and then, on the basis of some general wrapping up, to be allowed to get away without taking responsibility for those allegations.

1200 **Hon. Chief Minister:** This is just unacceptable, Mr Speaker, the hon. Gentleman, in his intervention now has gone one step further, and I think it is a step too far. He has impugned the Chair. He has impugned the Chair, Mr Speaker, and therefore, not in defence of Haresh K Budhrani QC, but in defence of the Chair, Mr Speaker, I give notice that I will be moving a motion against the hon. Member of no confidence because, Mr Speaker, one of the things that we have to do in this House, if this House is going to work, is that we have to accept the primacy of the Chair and the hon. Member has just said that, before, it was possible to obtain rulings against the Chief Minister, and now it is not, as if the Chair were in some way partial.

1205 Mr Speaker, I invite the hon. Gentleman to withdraw that, or the Government – not in defence of Haresh K Budhrani QC, but in defence of the Chair – will move a motion of no confidence in the hon. Member.

1210 **Hon. P R Caruana:** Mr Speaker, whether the hon. Members opposite have confidence in me or not is a matter about which I am totally indifferent. Since when do Governments have to have confidence in Oppositions?

This is a man who claims to understand the basic workings... (*Interjections*)

1215 **Hon. Chief Minister:** Since –

Mr Speaker: Order!

1220 **A Member:** Mr Speaker, I think he has got his – (*Interjections*)

Hon. Chief Minister: Another Point of Order.

Hon. P R Caruana: Am I not allowed to speak –

1225 **Mr Speaker:** Order!

Hon. Chief Minister: Mr Speaker. (*Interjections*) The hon. Gentleman has taken leave of his senses.

1230 **Mr Speaker:** Order! Order!

Hon. Chief Minister: The hon. Gentleman has taken leave of his senses.

The first Chief Minister to move a motion of no confidence against a Member of the Opposition was *him*, Mr Speaker: he moved one against *me*, Mr Speaker – or is it that he has forgotten that, Mr Speaker? – at the time of the Budget debate last year.

1235 Mr Speaker, in any event, the position is very clear for us. We will accept your ruling, Mr Speaker, on the substantive issue. I know the hon. Gentleman used to do everything possible *not to*, but we will accept your ruling.

1240 **Mr Speaker:** Can I just conclude my ruling? I must say, when the Hon. the Chief Minister indicated he would move a motion of no confidence, I did not in my mind think it was very appropriate. That is not the appropriate motion in here.

Hon. Chief Minister: A motion inviting him to withdraw.

1245 **Mr Speaker:** Well, yes. The motion which the Chief Minister refers to was a different one in nature – *(Interjections)*

I wish to conclude my ruling on this matter. The Leader of the Opposition invited the Chief Minister – challenged the Chief Minister – to name names. The Chief Minister has responded in terms of relationships and he refers, in addition to that, to two other – how do I put it? – entities whose contracts were recently terminated, and this is all public knowledge. That is the response given.

1250 For the purpose of the Question and Answer session in the midst of which we are, that is a sufficient response. It does not have to be individual names, date of birth and place of residence, or whatever it is. The reference to the relationship is sufficient. Whether or not the reference is accurate, the impression I got was all, if not most, of the brothers-in-law, but that is the allegation.

1255 **Hon. P R Caruana:** Oh, I see. So Members do not have to take responsibility for the accuracy of their statements in this House?

Mr Speaker: That is the answer. *(Interjections by Hon. P R Caruana and Hon. Chief Minister)* No, that is the answer.

1260 Order!

That is the answer, and if any Member is aggrieved by the conduct of another Member in this House, we have motions to debate that very point. What we cannot do is debate, in the middle of a Question about two managers of a bus company, the whole conduct of 16 years of Government on this side.

1265 **Hon. Chief Minister:** Mr Speaker –

1270 **Hon. P R Caruana:** But this is why I have made it a point of emphasising repeatedly that this is not in the context of Questions and Answers. This is in the question of a Point of Order, Mr Speaker. Of course I know I can bring a motion because I have the ability to move a motion, but we also have a Chair whose responsibility it is to enforce the Rules of the House. Foremost amongst those Rules – because I have been at the receiving end of rulings of it myself in the last few months – is that it is not appropriate to make statements in this House which impugn the motives or the behaviour of another Member of this House.

1275 Mr Speaker, I cannot think of a more serious impugnation of me than to say that when I held the position of responsibility in this House I abused it to promote and advance the employment interests of unnamed members of my family, and after an hour and a half of debate *and* the Chair's ruling, all we have discovered about the allegation – and people can assess it for what it is or is not – is that it is a reference to all my brothers-in-law.

1280 Mr Speaker, if you think that that is a proper way in which to leave this matter, I bow to your ruling, but I cannot really believe that it is a proper place to leave this.

Mr Speaker: The response has been clearly given that the persons whom the Chief Minister is alleging are the Hon. the Leader of the Opposition's brothers-in-law. That is the response. We may not like it, we may not agree with it, it may not be true, but this is not the place to debate it now. It has to be in a motion.

1285 That is all I am saying, because what we cannot do is halt Questions and Answers, of which we have another hundred-and-odd to go through, to debate this particular point. The challenge was laid down and the answer has been given, namely the Leader of the Opposition's brothers-in-law. That is the answer. He could name the eight or nine or ten individuals, but that would not take the answer any further; it is still the brothers-in-law, so we know who the allegation is about.

1290 If the Hon. the Leader of the Opposition feels that the allegation has been made in an improper manner or is unsubstantiated, or whatever it is, there are motions for that purpose.

Hon. Chief Minister: Mr Speaker, I think that might be an appropriate moment for us to take a break –

Mr Speaker: Already?

1295 **Hon. Chief Minister:** – but I beg to give notice, Mr Speaker, of a motion that the Leader of the Opposition should withdraw his challenge to the rulings of Mr Speaker, and I will put that motion in writing so it can be debated during the course of this meeting, later in the course of our affairs.

But I move, Mr Speaker, that the House do now adjourn until 5.30 in the afternoon.

1300 **Hon. J J Netto:** Mr Speaker, could I just intervene to say that, if we adjourn, we adjourn, and that is the end of the matter?

Hon. Chief Minister: Five thirty.

1305 **Mr Speaker:** No, recessing for a cup of tea.

Hon. Chief Minister: Only for a cup of tea.

1310 **Hon. J J Netto:** When we actually come back, can we continue with this Question because I have got a supplementary question I would like to ask? (*Laughter*)

Hon. Chief Minister: I have got to go, Mr Speaker, for 15 minutes.

1315 **Mr Speaker:** Yes, we will recess for 10 or 15 minutes and then we will come back to the proper Question.

The House adjourned at 5.05 p.m. and resumed its sitting at 5.30 p.m.

1320

**Gibraltar Bus Company
Appointment of director/manager**

1325 **Clerk:** Answers to Questions continue.

Mr Speaker: The Hon. Jaime Netto.

Hon. J J Netto: Thank you, Mr Speaker.

1330 Just going back to the actual original Question as asked by my hon. Friend, Mr Bossino, could I ask the Minister whether he can confirm or deny that one of the persons elevated to the post of director or manager into the Gibraltar Bus Company is Mr Alfred Traverso; and if so, to which post?

1335 **Hon. N F Costa:** Mr Speaker, as I have already said, I accepted the recommendation of an interview board. There was no question of me appointing or elevating anyone in particular. (*Interjection*) Yes, you said –

Hon. J J Netto: No, I didn't.

1340 **Hon. N F Costa:** – the elevation of a particular person to the post, which implies –

Mr Speaker: No, the question was one of the persons elevated. That is referring to the Minister.

1345 **Hon. N F Costa:** That is right, and I simply wish to reiterate the point that I did not elevate anyone or appoint anyone. I simply accepted the recommendation of the board and one of the persons is Alfred Traverso.

Hon. J J Netto: Could the Minister say whether it is to a post of director or manager, or to some other post?

1350 **Hon. N F Costa:** No, in my answer to the original Question, I made clear that the advertised post was one of general manager. The directors are the company directors; the officials within the company are civil servants. They are not hands-on managers like these two gentlemen are.

Hon. J J Netto: So I take it, then, that Mr Traverso is the general manager.

1355 **Hon. N F Costa:** One of the general managers, yes. There are two: one for administration, and one for operations.

Hon. S M Figueras: Mr Traverso was manager for administration?

1360 **Hon. N F Costa:** Yes, Mr Speaker, Mr Traverso was the office administrator since 2004 and he was recommended for the post of general manager for administration.

Mr Speaker: The Hon. Damon Bossino.

1365 **Hon. D J Bossino:** We did ask, from the Opposition benches, for the names of the successful applicants. The Minister has kindly confirmed the name of Mr Traverso and the other –

Hon. N F Costa: Yes, sorry, the second person is Clive Martinez.

1370 **Hon. D J Bossino:** Mr Speaker, can the Minister advise this House who constituted the board which conducted the interviews?

Hon. N F Costa: Yes, of course, Mr Speaker.

1375 The first person was Audrey Vela, Marketing Manager of the GTB; the second person was Peter Cleverly, who is the Chief Examiner; and the third person is Caine Sanchez, PA to the Deputy Chief Minister.

Hon. D J Bossino: Mr Speaker, the Minister has referred to *a* recommendation. Is that the only recommendation received from the board?

1380 **Hon. N F Costa:** Yes. Mr Speaker, as I said in answer either to my original Question or to one of the supplementaries – and I read part of the extract of the recommendation – it said:

‘The board agreed that they could not come to a final outcome to decide on who to recommend for the post of general manager...’

1385 – noting that there was only one advertised post –

‘...as two of the candidates were found suitable.’

1390 **Hon. D J Bossino:** Is he in a position to divulge to this House who the third applicant was?

Hon. N F Costa: Well Mr Speaker, I do not think that would be appropriate, given that the person was not successful and he may not want the whole of Gibraltar to know that he applied and was therefore unsuccessful.

1395 **Hon. D J Bossino:** Can the Minister confirm that, in fact, the third unsuccessful applicant was found unsuitable for the job?

1400 **Hon. N F Costa:** Mr Speaker, once again, I remind the hon. Gentleman that there was one post advertised for general manager. The interview board, according to the recommendation, was that they found two of the three candidates suitable, so it is inherent, I imagine, from that, that they did not find the third person suitable,

but having said that, this is a private individual who I think would be loathe to be mentioned and named in this House, and I think that it is only fair that the hon. Gentleman stopped probing me on an issue which would expose a person who was not suitable by an interview board. I do not think it is fair that the hon. Gentleman should keep probing me on that *particular* point.

1405

Hon. D J Bossino: Mr Speaker, given the move up the ladder as far as Mr Martinez and Mr Traverso are concerned, have the posts which they presumably have left vacant been filled; and if so, by whom?

1410

Hon. N F Costa: Mr Speaker, whereas I do not have the exact dates or the exact positions, from recollection from my last meeting with them, the posts that they have left vacant have now been advertised internally and I would not be able to tell him the exact date but interview boards will be held.

To stress the independence of those boards, I will not at all be taking part in who is nominated etc. I have left it for them, in conjunction with the principal secretary, to arrange.

1415

Hon. D J Bossino: So those positions, as at 19th September, remain vacant – is that the case? Is that understanding correct?

Hon. N F Costa: That is correct. There is currently an acting deputy administrator.

1420

Hon. D J Bossino: Is the Minister able to provide a name?

1425

Hon. N F Costa: Mr Speaker, I think if I may just answer that by saying that I do not feel comfortable providing the names of people in a Government-owned company, for the very simple reason that should these people not be found suitable or successful, they may not want their names being bandied about. If I recall correctly, there is some rule that says that it may not be proper to refer to third parties by names etc. (*Laughter*)

1430

By all means he can ask me in future who the successful applicants were – I would have no problem in telling him that – but to start getting into who applies, who does not apply, I think would be improper and certainly unfair for the people concerned because people may now start to worry that, should they apply for a post, their names are going to be now part of a debate across the floor of this House and I think that people should just be allowed to apply on their own merits and not because of what political debate we may hold here.

1435

Hon. D A Feetham: Mr Speaker, may I ask the Hon. the Minister for Tourism that the next time that perhaps we make a Point of Order he might be the person in fact arguing on behalf of that Point of Order, because he has elucidated quite well and very succinctly the point that my learned friend, the Leader of the Opposition, was making, which is it is quite improper, in fact, to be identifying third parties in this House that have nothing to do with this House: we can identify a person by name or you can identify that person by just referring to a narrow class of people, as the Hon. the Chief Minister made reference earlier.

1440

Can I ask the Hon. the Minister, when he received the recommendation from the board, did it cause him any concern that two of these individuals were GSLP activists, but one of them in particular was the moderator of a well known internet debating group – I think it is 'Llanito Politics' – who was very well known for his anti-GSD views, and indeed *well known* for his rabid, quite personalised comments on Members of these benches, and also well known Members of the GSD?

1445

Hon. Chief Minister: Mr Speaker, can I comment to the hon. Gentleman that before his side of the House makes allegations and rises on points of order, they should look at the *Hansard* and see what has actually been said, because that would have helped them to elucidate the points that they are making.

1450

Finally, Mr Speaker, can I tell the hon. Gentleman that he needs to look back at what it is that we have been debating for the past hour – some of it quite heated – and he will find the answer to his question, which we have answered on a number of occasions.

1455

Hon. D A Feetham: Mr Speaker, with respect to the Hon. the Chief Minister, I have to say I made this point to him before, that he is rapidly turning into what he used to criticise my hon. Friend, the Leader of the Opposition, when he was Chief Minister, for doing. He is answering every single question that we pose to

Ministers of his Government. He seems to be the one standing up and answering them, and it really is quite unhelpful, because all it does is just lead into endless debate that rapidly spirals out of control because of the way that he conducts the debate.

1460 May I ask the Hon. the Minister to answer the question. The question was not posed. The question this time is whether it caused him concern, when he received that recommendation, that this particular individual had that particular background. That is the question.

1465 **Mr Speaker:** I do not think it is up to any Member of the Opposition to pinpoint and decide who answers a question. The question is posed to the Government and the Government can answer the question by whichever Member the Hon. Chief Minister thinks fit.

Hon. D A Feetham: I accept that entirely –

1470 **Mr Speaker:** That is what has happened.

1475 **Hon. D A Feetham:** No, no, I accept that entirely, but the point is different, Mr Speaker. The point that I have made is that the Hon. the Chief Minister used to criticise the Leader of the Opposition, when the Leader of the Opposition used to stand up and answer for somebody else and I am saying ‘You are turning into the very thing that you used to criticise!’

I am not saying that he is not *entitled* to do it. That is not what I am saying. I am making a more subtle political point. I do not think, Mr Speaker, that it is something that is a Point of Order or a transgression of the rules on this –

1480 **Mr Speaker:** Can I, as a non-politician, say that is typical of all politicians: ‘Do as I say, not as I do’.

Hon. Chief Minister: You see, Mr Speaker, Question Time is not for ‘subtle political points’; Question Time is for the elicitation of information from the Government.

1485 The Hon. Mr Feetham can say what he likes. The fact is that we only heard one voice between 1996 and 2011 from these benches, both in the detail of matters that were being dealt with constitutionally by the then Chief Minister and in others. I am very happy, Mr Speaker, to allow my Ministers to answer questions. I trust my Ministers and I trust my officials, Mr Speaker – quite a change from the regime before 8th December 2011.

1490 But when macro-political issues are raised which affect the whole Government, then I am perfectly happy to get up and deal with those issues. I do not think it raises any issue with any of my Ministers.

In respect of the substance of the ‘subtle political point’, I think, that the hon. Gentleman thought he was making – but of course he is as subtle as brick – I refer him to the *Hansard* of answers that have already been given, because re-phrasing a question does not mean that it is an opportunity to ask it over and over again.

1495 **Hon. J J Netto:** Mr Speaker, can I ask a supplementary question?

I think I heard the Minister just now say that the recommendation of the board was that they had selected two names. Can I ask the Minister whether that is the only recommendation they have had from the board or whether there was a previous recommendation?

1500 **Hon. N F Costa:** That was the only recommendation received from the board. (*Interjections*)

Mr Speaker: Next question.

Clerk: Question 693, the Hon. – (*Interjections*)

1505 **Hon. D A Feetham:** Mr Speaker! (*Interjections*)

Mr Speaker: Order! Order! Order!

1510 **Hon. D A Feetham:** Look, I quite understand that the Hon. the Chief Minister... I don’t know, he is new at the job, he really wants to (*Interjections*) make his mark and he has a need to stand up and answer for

everybody else.

1515 As I understand it, the recommendation has not been made to *him*; it has been made to the Minister. If I ask a question of the Minister about what concerns *he* may have had – and it is very specific, easily answered – about a recommendation that has been made to him, he ought to be allowed to answer, otherwise we will all go out of this House thinking ‘Well, he’s got something to hide’, because the Hon. the Chief Minister keeps on standing up and feels the need to protect him from a quite straightforward question. Again, I would invite the Hon. Minister to answer the question.

1520 **Hon. Chief Minister:** Mr Speaker, this is not any longer Question Time; this is the hon. Member with his pickaxe trying to make these subtle political points, right! – ‘Oh, he doesn’t allow that... he’s got something to hide.’

1525 Mr Speaker, the tricks of cross-examination are not to be deployed in Question Time in the House. There is absolutely nothing to hide. It has been ventilated a thousand times, and what I am saying to the hon. Member is stop wasting your time and ours and the listeners’, get onto the next Question, because that question phrased in a thousand other ways has already been answered on a thousand occasions.

1530 If he wants to make political capital of it, let him issue as many press releases as he likes about this issue and how much he wants us to recognise that he was responsible for the courts and all the rest of the things that he likes to take credit for. But in this House at Question Time, Mr Speaker, let us leave those babyish issues aside and let us get on with elucidating information. That is what Question Time is for. They have now got 10 a year. Use it for that. If they want to make ‘subtle political points’, let them issue press releases or bring motions for debate. Let us use Question Time for what it is intended to.

1535 **Mr Speaker:** I think we must move to the next Question, unless we have a supplementary of substance to elicit information which we have not already elicited this afternoon!

**Introduction of new bus service
Details of consultation process**

1540

Clerk: Question 693, the Hon. D J Bossino.

1545 **Hon D J Bossino:** Can the Minister for Tourism, Public Transport and the Port provide details of the consultation process carried out in relation to the introduction of the new bus service to include matters such as when it commenced; the number of representations received; the nature of the representations; the sources of the representations made; and when the process closed?

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

1550

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Yes, Mr Speaker, the Question implies in the first place that the formal consultation process was initiated, given that the Question asks for the commencement and the closing date of this process.

1555 On taking office, I requested to see any complaints and representations received in writing in respect of the routes, before the changes implemented in August of this year, in order to familiarise myself with a background to any existing problems and issues.

At the same time, I took the opportunity to meet with representative associations and private individuals in respect of their complaints and their suggestions on routes. The hon. Gentleman will, I am sure, be as surprised as I was that the survey conducted by their administration recorded 284 complaints over a five-day period.

1560

In addition, there are 94 written complaints addressed to the previous Minister for Transport. I am informed by officials of the Gibraltar Bus Company that when the changes were introduced on 28th May 2011, there was nothing short of a tidal wave of verbal complaints directed to the drivers, chargehands and inspectors, and it was as a result of this tide of dissatisfaction in respect of the changes of May that the previous administration conducted the previously mentioned survey over the five days.

1565

Given that there were 284 complaints plus the additional 94 written complaints to the previous Minister, it

1570 is impossible to provide the exact details of each of the complaints, because these range from dissatisfaction of route changes, the length of some of the new routes, the insufficiency of buses at peak times and overcrowding being the most frequently repeated complaint, as a result of tourists taking advantage of the free bus service – in our view, when in Opposition, Mr Speaker, a fundamentally flawed, misguided and irresponsible decision. The less charitable minds amongst us, Mr Speaker, will no doubt attribute the introduction of a universally free bus service to the nearing and inevitable election dates.

1575 Since being elected into office, I have received five letters from private individuals making representations, the majority on Route 3 and one in respect of bus shelters. As the hon. Gentleman will no doubt know, from our press release, the complaint in respect of Route 3 has been addressed by reducing waiting times from 25 minutes to 20 minutes. In respect of the bus shelters, one has already been erected at Tank Ramp and a second one is being erected outside Shorthorn Estate.

1580 Since the date of drafting the answer to this Question, the managers of the bus company advise that they have received three written complaints in respect of the new bus routes, one concerning a change to the scheduled time of arrivals no longer being the same as before; another from residents of South Barracks, who would like the Route 4 buses to stop in that location too, and this is now tabled for consideration by the Transport Commission; and, finally, users of Route 3 stating problems with schoolchildren not being able to alight the bus due to overcrowding – although the complaint specifies that this only happened on one morning.

1585 Mr Speaker, I have been in contact as well with the Gibraltar Pensioners' Association, who have made various suggestions. These include adding two new routes which are currently under consideration.

Finally, Mr Speaker, Government consultation by its very nature is a fluid and continuous affair so that, as far as this Government is concerned, consultation will not cease.

1590 **Hon. D J Bossino:** Well, the Minister must forgive me for thinking that he, in fact, had undertaken a formal consultation process; he has now confirmed that that is not the case.

Is he able to give me, in a schedule perhaps, later on outside of this House, the list of private individuals and associations he claims to have met as part of *his* consultation process?

1595 **Hon. N F Costa:** Mr Speaker, I have mentioned one of them, which is the Gibraltar Pensioners' Association. I cannot off the top of my head remember the names of the other representative groups that I have met, but I am happy to call my office at some point and then give him the information, if he wants.

1600 **Hon. D J Bossino:** I would also be grateful for the Minister, so I can analyse his reply further, in relation to the complaints he said that we received under our watch – in terms of the number and the nature of the complaints.

I am happy to pose a further Question at the next sitting of the House, but maybe we can have a discussion.

1605 **Hon. N F Costa:** Yes.

**Gibraltar Bus Company Limited
Drivers employed and dismissed**

1610 **Clerk:** Question 694, the Hon. D J Bossino.

1615 **Hon D J Bossino:** Can the Minister for Tourism, Public Transport and the Port, advise the House how many drivers are employed by the Gibraltar Bus Company Limited; the nationality of the drivers; how many of the drivers have been dismissed since 9th December 2011; and the nationality of the dismissed drivers?

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

1620 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Yes, Mr Speaker. The Gibraltar Bus Company Limited, as at 12th of this month, currently avails itself of 44 drivers, broken

down as follows: 13 Spanish nationals; of which 12 are on indefinite contracts and one on a supply basis; 6 Moroccan nationals on indefinite contracts; 25 British-Gibraltarian nationals, of which 21 are on indefinite contracts, three under the Future Job Strategy scheme and one on a supply basis.

1625 There has been no dismissal of any drivers on indefinite contract since 9th December. One employee was dismissed and started proceedings for unfair dismissal and, following the reconciliation services of the ETB, was subsequently reinstated.

Gibraltar Bus Company Limited terminated the services of seven supply workers. Five were Spanish, two British-Gibraltarian, as a result of the implementation of the new routes introduced in August of this year.

1630

**Gibraltar Bus Company Limited
Eco-friendly buses**

1635 **Clerk:** Question 695, the Hon. D J Bossino.

Hon D J Bossino: Can the Minister for Tourism, Public Transport and the Port provide this House with details of the cost, precise number, make and place of manufacture of the eco-friendly buses which are in the process of being acquired by the Gibraltar Bus Company Limited?

1640

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, in the first instance, may I draw attention to my reply to the hon. Gentleman's Question 596 of this year.

1645

Mr Speaker, the tender for the supply of eco-friendly buses has still not been completed. As such, I am unable to provide the House with the information the hon. Gentleman requests.

For his information, however, let me tell him that there are nine companies currently participating in the process. The first stage submission of documents took place on Friday, 14th September. From a quick look, four of those companies are local.

1650

After a period of consideration, selected tenderers have to be given an EU imposed minimum 40 days in which to price their requirements as part of the second stage. Given the variety of vehicles currently on the market and the varying costs associated with the different types of vehicles, in addition to the related services required, it is not possible to provide accurate costs. These will have to be calculated once price tenders are submitted.

1655

Companies applying as a primary contractor have been allowed to nominate up to three partners, in order to improve the chances of getting good-quality environmentally-friendly buses which meet the demands of the public and routes alike, and of course I should have added here which are compliant with EU directives.

Similarly, the precise number of buses is not known at this stage, as this will be evaluated pending the results of performance tests to be carried out as part of the tender process. However, all interested companies have been informed that 18 to 20 buses will be purchased over the next three-and-a-half years.

1660

Hon. D J Bossino: I did check the reply which the Minister referred me to in his current reply, and from my understanding of the position can I ask him this: presumably we are still not at the stage where there is a successful and – I use his words – pre-qualification tenderer?

1665

Hon. N F Costa: That is right.

Hon. D J Bossino: So at the moment, it is all in the air as far as the nine applicants are concerned.

1670

Hon. N F Costa: Mr Speaker, the position is correct to say that it is not in there; it is part of an ongoing process, yes.

1675

**Airline business development
Consultation services**

1680 **Clerk:** Question 696, the Hon. D J Bossino.

Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port advise who or which company provides consultation services to the Government in respect of airline business development in Gibraltar and can he provide this House with the full particulars of the nature of the services that are provided?

1685

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, although this information is already available on the Government website, I can confirm that Mr Stuart Finlayson provides consultation to the Government in respect of airline business development.

1690

Mr Finlayson has been engaged on a six-month contract at a cost of £13,750 for the six months. Mr Finlayson is tasked with assisting the Gibraltar Tourist Board with its critically important route development work by maintaining constant contact with the airlines currently operating to Gibraltar and also attracting new operators to the Rock.

1695

Hon. D J Bossino: Is Mr Finlayson – using his categorisation in response to one of my previous Questions – a British Gibraltarian?

Hon. N F Costa: I have his CV before me. I do not believe it states his nationality. I do believe he is a British Gibraltarian. I would have to ask him that personally when I see him next on my weekly meeting, but I do believe he is.

1700

Let me say also, Mr Speaker, that we believe we have found very good value for money in this contract as this gentleman's CV does speak for itself and he is already proving to be quite an asset to the Tourist Board in respect of its consulting services.

1705

Hon. D J Bossino: Mr Speaker, can he advise when Mr Finlayson took post, if he has not replied to that already?

Hon. N F Costa: No, Mr Speaker, I have not provided that information. He took post on 1st July, and of course the contract, being of a six-month term, will expire, if not renewed, on 31st December of this year.

1710

Hon. D J Bossino: Mr Speaker, was that position advertised?

Hon. N F Costa: No, Mr Speaker, put simply, this gentleman requested to see me. He made a presentation to me and the Chief Executive of the Tourist Board. We were exceedingly impressed by the information he had with him in terms of passenger routes, passenger number analyses, the throughput from Gibraltar to Spain.

1715

Simply put, he was a very impressive person who gave a very impressive presentation, and the Chief Executive, following that meeting, advised me that it would do Gibraltar a great good, in particular in respect of developing air route connectivity which, as the hon. Gentleman knows, does take some lead-in time – save that, of course, my experience with Monarch increasing routes from Manchester and from Birmingham will show that we can move quite quickly on this when required. We thought that it was a good *fichaje* for the Gibraltar Tourist Board.

1720

Hon. P R Caruana: In terms of the required level of precision in the House, will the hon. Member confirm whether or not this gentleman is his brother-in-law?

1725

Hon. N F Costa: Mr Speaker, I first met Mr Finlayson whenever he gave me the presentation a few months ago.

1730

Hon. P R Caruana: So he is not your brother-in-law? That's okay.

Deputy Chief Minister (Hon Dr. J J Garcia): You don't have a brother-in-law.

1735 **Hon. N F Costa:** I don't have a brother-in-law (*Laughter*). I may have without knowing, perhaps, but not to my knowledge.

1740 **Hon. P R Caruana:** It is just that it appears to be only brothers-in-law to whom you are not allowed to give contracts and things and friends without [*inaudible*].

Clerk: Question six hundred and –

Hon. D J Bossino: Sorry, just by way of further –

1745 **Mr Speaker:** The Hon. Damon Bossino.

Hon. D J Bossino: Mr Speaker, I am grateful.

1750 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I am afraid that I have to move an adjournment now until tomorrow morning, if the gentleman will allow, but if he has got one supplementary and he wants to make it now, I am quite happy to allow him to do that. (*Interjection by Hon. P R Caruana*) *No, no ya no nos fiamos de ustedes. (Laughter and applause)*

1755 **Mr Speaker:** Order! Order! (*Interjections and applause*) Order! (*Interjections*) Order! Order! Order! Order! Order! (*Interjections*) Order! Order!

Before the hon. Gentleman poses his question, may I remind members of the public sitting in the public gallery you are invited here to observe the proceedings and not to participate by either cheering or jeering what you see and hear. I will expect some order in the public gallery. The Hon. Damon Bossino.

1760 **Hon. D J Bossino:** Mr Speaker, I am happy to accede to the Chief Minister's request.

Mr Speaker: No further questions, in that case.

1765 **Hon. D J Bossino:** I will proceed tomorrow, Mr Speaker.

Mr Speaker: If I let you. (*Laughter*)

Hon. D J Bossino: With Mr Speaker's permission.

1770 **Mr Speaker:** The Hon. Chief Minister has indicated that if there is a supplementary he is willing to wait for a few minutes. Is there a long line of questions in the offing on this?

Hon. D J Bossino: Mr Speaker, it depends on the answer I get to my first supplementary.

1775 **Mr Speaker:** Alright, in that case –

Hon. D J Bossino: With respect, the Hon. the Chief Minister has suggested that he is going to be moving a motion to adjourn the House and –

1780 **Mr Speaker:** We will leave the matter open.

Hon. Chief Minister: Mr Speaker, in that case I beg to move the motion that the House do now adjourn to 9.15 a.m. tomorrow morning.

1785 **Mr Speaker:** I now propose the question that this House do now adjourn to Thursday, 20th September

2012 at 9.15 a.m.

I now put the question, which is that this House do now adjourn to Thursday, 20th September 2012 at 9.15 a.m. Those in favour. (**Members:** Aye.) Those against. Passed. This House will adjourn to Thursday, 20th September 2012 at 9.15 a.m.

1790

The House adjourned at 6.00 p.m.



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 9.15 a.m. – 1.16 p.m.

Gibraltar, Thursday, 20th September 2012

The Gibraltar Parliament

The Parliament met at 9.15 a.m.

[MR SPEAKER: Hon. H K Budhrani QC *in the Chair*]

[CLERK TO THE PARLIAMENT: M L Farrell Esq RD *in attendance*]

Questions for Oral Answer

TOURISM, PUBLIC TRANSPORT AND THE PORT

Airline business development Consultation services

Clerk: Sitting of Parliament, Thursday, 20th September. Answers to Questions continue.
Question 696.

5 **Mr Speaker:** I think we had reached the supplementary stage.
Hon. Damon Bossino.

Hon. D J Bossino: I am grateful, Mr Speaker.

I am sure we have all had a well-earned rest after yesterday's proceedings and I look forward to these proceedings being a bit more calm and civil. (*Interjection*). Let's see... Let's see what happens.

10 Mr Speaker, I think the way we left matters in relation to my Question, which related to the provision of consultancy services to the Government in respect of airline business development in Gibraltar... The answer was, just to recap, that Mr Stuart Finlayson had been appointed in this respect and the Minister gave me some information as to the terms in which that appointment had been given. But can I ask the Minister... maybe home in and request further particulars as to what those terms of reference are.

15 In relation to that, does Mr Finlayson have any objectives which he has to achieve within the first six-month period of his appointment?

20 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Yes, Mr Speaker, the objectives that the hon. Gentleman speaks of are not contained in the consultancy agreement, but we have made it clear to Mr Finlayson that the whole point of his consultancy services to the GTB is, other than maintaining contact with the airlines and introducing Gibraltar as a potential destination to Nordic countries – in particular to Germany – and other operators in Spain and other operators in the UK, for us to take a positive view to renew his contract it would be ideal if we had a signed agreement of a new air route coming to Gibraltar.

25 That does not mean that if we do not have one then we will *not* renew his contract, because it may be that negotiations are well progressed in respect of various airlines that may well consider coming to Gibraltar, but it is, to answer the hon. Gentleman's question, a result-driven contract and it is perfectly clear that in order for him to continue to provide consultancy services to the Gibraltar Tourist Board he will need to provide results and, of course, that would be tangibly new air connectivity to Gibraltar.

30 **Hon. D J Bossino:** Perhaps just to confirm something that the Minister has just said, Mr Speaker, I would be interested, on this side of the House, to ask for the Minister's confirmation that the measurable target on which he, as the Minister responsible for this area of policy, will be able to assess whether Mr Finlayson's appointment has been a success or otherwise, will be the ability to secure connectivity, as he has just mentioned. Is that the target? And if that is indeed the target – I expect that the answer will be that it is – is there a timeframe that he has in his mind *now* as to when he expects Mr Finlayson to deliver in that respect?

40 **Hon. N F Costa:** Mr Speaker, in the first place – I did say this, but I will reiterate it – it is important that we maintain constant contact with airlines. There are, as the hon. Gentleman knows, a number of them, some of which *we* think are suited to come to Gibraltar because of their place in Europe. It is because Mr Finlayson has such an extensive experience of the airline industry and has worked, for instance, for Routes Ltd, which the hon. Gentleman knows sets up the Routes conference, he has worked for Airport Coordination Ltd, for airport slots as senior co-ordination executive, he has a Masters in air transport management... Because of his background, he therefore has a unique blend of contacts throughout the airline industry which we do intend to, in the best possible sense, possibly plunder so that Gibraltar becomes very much visible in their minds and on their radar.

45 So part of Mr Finlayson's value to the Gibraltar Tourist Board is, firstly, the contacts that he is able to establish and the relationships that he is able to pursue, and that cannot be, I think, belittled because it is very difficult for us to get in touch with airlines through which we have no contacts. So having a foot in the door, as it were, is crucial. Once we have that, of course, the target very much is that Mr Finlayson, where possible, secures an airline connection to Gibraltar.

50 All of the experts in the industry – whether it is local tour operators or international operators or, indeed, the executives of airlines that I have spoken to, have always told me that lead-in time to establish a new route could be anything between a year or two. The hon. Gentleman knows that we were successful, once the Liverpool route disappeared, to increase capacity, to maintain the capacity through Manchester through Monarch, and when Bmibaby announced that it would cease operations in October we were also able to move quickly to start operations, as from March, also through Monarch at Birmingham. So we *can* move quickly where it is absolutely necessary that we do so, and the hon. Gentleman will, I am sure, congratulate us in

being able to do so in those two respects.

60 That is one thing. Being able to develop relationships and secure airlines from partners with which we have absolutely no relationship... We have no relationship with airlines in the Nordic countries, no relationship with airlines in Germany, for instance. We need, as I say, to establish those contacts and then try to see how we best secure those routes.

65 I have impressed on Mr Finlayson, as I have already said, that for the Government, a sure sign of success would be that he is able to have a contract signed with an airline before the expiration of his first six-month term, but as I have also said, given that he has invaluable contacts in the airline industry, and if we feel that he has sufficiently progressed negotiations with any number of airlines, it does not mean that because he has not *secured* one contract by the end of his first six months, that we will not renew it for another six months for him to finalise and continue negotiations which are already in place.

70 I can already tell him, too, that Mr Finlayson has prepared a very detailed information booklet on the Gibraltar Airport as to passenger input, passenger throughput, the benefits of the Gibraltar Airport, the benefits of flying to Gibraltar and how that analysis will factor into airlines' *own* analysis as to why it would be commercially viable for them to come to Gibraltar, and this is the point that I am trying to make. For Monarch, even if they have no data from Birmingham to Gibraltar, they have been able to rely on the data from Bmibaby and, indeed, the data from Luton, so they have more or less an idea of numbers because of their relationship, but for those airlines that have no relationship this is where Mr Finlayson comes in.

Hon. D J Bossino: The answer I am now seeking may have been inherent in what the Minister has just said, but one of the concerns I have... because I can tell him that when we were in office... As he well knows, I was not in that GSD administration. The information that I get is that we had gentlemen – maybe it was Mr Finlayson himself, or people like him – who sold his wares to the Gibraltar Government at the time and that was never seen as a positive move, on the basis simply that the analysis made was that there were sufficient staff within the GTB, as well as the Minister himself, who would be able to carry out that work.

85 I would be interested to learn... and this goes really to the issue of cost, and I do appreciate that the cost outlay here is not necessarily great, given it is under £15,000 for the first six months but, given the issue of costs and given also the statements made by the Hon. Minister in this House in the past, Mr Speaker, that he lays a lot of emphasis on personal contact, and I assumed it was his personal contact with the players in the industry... how he expects – and I could home in on that – to marry what Mr Finlayson does and what he himself has told this House he is doing, as well as his Department?

90 **Hon. N F Costa:** Mr Speaker, with respect to the hon. Gentleman, there is nothing mutually exclusive between a person who has the connections that he has as a result of having worked for so many years in the airport industry that introduce his Minister to those people to build those personal contacts and the work that he does. Mr Finlayson comes armed and equipped with an ability to analyse data in respect of passengers and throughput and can establish those contacts and introduce *us* – the Gibraltar Tourist Board and me – to those personal contacts that will eventually, hopefully, once he has done the groundwork in terms of passenger analysis – the number of people that can fly to Gibraltar, why it is commercially beneficial for them – for me to go eventually and sign whatever agreement is necessary.

100 My personal contacts are now very much, I hope, embedded with Monarch Airlines and also with British Airways. Of course, Monarch Airlines is a much smaller business, so to know the managing director is very much like knowing the actual owner, because there is this symbiosis between them, too, because it is a family-owned business and therefore very small. British Airways, as he knows, is a behemoth, it is *much bigger*, so as we do now have a special contact for Gibraltar – indeed, it is through this contact that we managed to obtain the two extra weekend flights with BA... It is a much bigger organisation, so just by knowing this one contact does not mean, of course, that we know people at the very top, but Mr Finlayson does, indeed, know certain people that he can introduce us to.

105 So the hon. Gentleman will note that, even when Mr Finlayson was now here, we were able to obtain the two additional flights from BA. Those were done, in fairness, through the efforts of the chief executive, Mr Guerrero, and my three meetings with this gentleman from BA. However, I think that Mr Finlayson's statistical analysis very much helped clinch the deal as to whether it was commercially viable or not for Gibraltar.

110 In respect of costs, I think the hon. Gentleman will agree with me that £13,000 for six months, when we have been able to secure already two extra additional flights from BA *weekly*, is very much a good deal.

115 In respect of staff, yes, the Gibraltar Tourist Board does have, I would say, a high complement of people, but I can assure him that they are very much busy in whatever areas they are contracted to perform.

120 Mr Guerrero does have a particular expertise on airports and air connections, which is why we brought him in as the chief executive, but because he is also the chief executive it means that at least half of his time is designed to administration, human resources issues, paper-clipping etc, so he was not able to fully dedicate himself to what we think is a vitally, critically important economic generator, which is air connectivity, and the hon. Gentleman will agree with me, without getting into the political squabble of whether €80 million was too high or too low – we know what the respective political positions are – because we do now have an airport that has a capacity for one million passengers a year and we only have air connectivity to the UK, we really do need to have the expert resources of those that we can obtain to make the airport, which we say was built over-excessively in terms of cost, a success.

125 **Hon. D J Bossino:** Mr Speaker, the Minister has quite rightly said that we will always be at loggerheads as to the judgement that this side of the House has and the tick that this side of the House has in relation to the building of that airport. That is absolutely right and, just by way of emphasis, we certainly still support. He knows what the arguments are and he knows what I said in my Budget speech. I very much encourage the Government... [*Mobile telephone interference*] to make use of the Airport... [*Mobile telephone interference*] – I think we have some mobile interference – and get it operational as soon as possible.

130 Just by way of confirmation, basically Mr Finlayson at this stage, and I do appreciate that it is very much work in progress, since he was only appointed relatively recently... I think it was 1st July he mentioned yesterday. Basically, he is an introducer of business to the Government, but an introducer of business who has a particular expertise and knowledge of the industry in terms of statistics and data and all the rest.

135 **Mr Speaker:** I hate to be –

140 **Hon. D J Bossino:** Just by way of confirmation.

Mr Speaker: I hate to be critical. Sorry. I hate to be critical of the hon. Member, but at Question Time a supplementary is not about confirmation or reconfirmation; it is about eliciting information. That information has been provided. What was the need for *confirmation* of that same information?

145 Next question, please.

Hon. D J Bossino: Well, Mr Speaker –

150 **Mr Speaker:** No, with respect, the answer, everything which the hon. Member asked the Minister to confirm has been answered in different ways over several supplementaries. What is the point of a *confirmation*?

Hon. D J Bossino: Mr Speaker, this is a new initiative on the part of the Government.

155 **Mr Speaker:** I beg your pardon?

Hon. D J Bossino: Mr Speaker, this is a new initiative on the part of the Government and I am just very interested to learn and to make sure that I have understood the responses that the Minister has given me in this House and I think it is –

160 **Mr Speaker:** But doesn't the sum total of all the answers encompass what the hon. Member has asked the Minister to confirm? Or is there something else you have asked him to confirm?

Hon. D J Bossino: Mr Speaker, simply to... perhaps for the Minister to –

165 **Mr Speaker:** With respect, this is not a courtroom where –

Hon. D J Bossino: – to summarise what –

170 **Mr Speaker:** No, with respect, in Question Time, there was summarising of information that has been provided. It is not a courtroom where we have got to summarise the information for the benefit of the jury. The information *has* been provided.

175 **Hon. D A Feetham:** Yes, but Mr Speaker, I have to say that Mr Speaker has, on a number of sessions, now with me accused me of asking questions of the Government in a way that is designed to batter a confession out of the witness. He has drawn this analogy with a courtroom on a number of occasions and I think it demeans this side of the House.

Now Mr Speaker may or may not have a point, but I think that Mr Speaker takes the analogy with a courtroom and playing to... What effectively you are saying is that we, on this side of the House, are playing to the gallery; and we, on this side of the House, refute entirely that suggestion.

180 My hon. and learned Friend, Mr Bossino, is asking questions. Sometimes one may overstep the mark. It is not the first time that it has happened, it will not be the last time, but what I would ask Mr Speaker to do is perhaps show some restraint in the use of his analogy, which he has used on a number of occasions, about courtrooms and battering witnesses and playing to the jury.

185 I personally did not see anything wrong with the questions; but, of course, you are the Speaker and he has to abide by your ruling. All I am saying is that perhaps you are going a little bit –

Hon. D J Bossino: Sorry, Mr Speaker, also if I could just to that and explain that this was, literally, my last supplementary.

190 This is, as I explained earlier, a new initiative from the Government. I am very interested in it. I do not think my questions – and I think the Hon. Minister would agree with me – have been aggressive in *any* way.

Mr Speaker: Not at all.

195 **Hon. D J Bossino:** In fact, they have not even been *political* in any way. It is simply – and I am very conscious of Standing Orders, Mr Speaker – an attempt to elicit information. As part of that process, Mr Speaker, I think it is important, by way of confirmation – and I do not think that the Opposition ought to be shackled in *that* respect – to be in a position on this side of the House to ensure that we have fully understood what have been – with all due respect to the Minister – rather lengthy replies. (*Interjection*)

200 I am sure that the response could easily have been – and I expected that the response would be, because I *think* I have understood, but I just wanted confirmation in that respect – a simple ‘yes’, and then I can assure Mr Speaker, and the Chair, that my supplementaries would have ended there.

205 **Mr Speaker:** Okay. First of all, may I say to the Hon. Daniel Feetham that I have *never* accused or suggested that the questions or the conduct of the Opposition are aimed at playing to the gallery – I never have.

210 When I have drawn an analogy, I have drawn an analogy in terms of trying to get the *answer*. If I talk about ‘beating a confession out of the witness’, I am referring to trying to get the answer in the manner in which the Opposition would like to hear it, in the manner which lawyers like to hear an answer from witnesses, in that context. I have *never*... I am sure if the Gentleman on this side were to cast their minds back, I have never suggested that any of the questions or any of the conduct of the Opposition is playing to the gallery. I never have and it would be wrong for me to do so. I never have.

215 Getting back to this point again, with respect, we must all understand (*Interjection*) that Question Time is about eliciting information or urging a certain policy. The hon. Gentleman has asked three or four supplementaries today in a perfectly proper manner – no criticism meant, or even suggested, of the manner in which questions are posed, or the questions themselves. The answers have been given in an equally straightforward forthright matter. There is absolutely no criticism of the question or of the answers.

220 The criticism lies in the last question, which asks the Hon. Minister to *confirm* the state of affairs, which the Minister has answered over a series of questions. That is not, in my understanding, eliciting information or urging of policies: simply asking him to reconfirm that that is a summary of what he has said over the questions this morning and one or two yesterday afternoon. That is not the purpose of supplementaries.

Hon. D J Bossino: Mr Speaker, is the ruling from the House going to be... or the recommendation from the House that we are not to seek confirmation in respect of answers where perhaps the poser of the question

225 may not have understood the entirety of the answer given?

Mr Speaker: Ask for –

Hon. D J Bossino: Is that the position –

230 **Mr Speaker:** Just ask for clarification of the answer; but not *confirmation*.

Hon. D J Bossino: I will happily replace the word ‘confirmation’ with ‘clarification’.

235 **Mr Speaker:** Please do.
What would you like the Minister to clarify?

240 **Hon. D J Bossino:** Well, can the Minister *clarify*, because in fact, Mr Speaker, I have asked and used the word ‘confirmation’ in the past, and the Chair has not stopped me... but can the Hon. the Minister for Tourism clarify that Mr Finlayson’s duty, or the benefits of Mr Finlayson’s appointment, will be that he will be, in effect, the introducer of business to his departments? That in fact he is telling this House that he is a particularly attractive appointment because not only is he somebody in the know, in terms of whether he knows the contacts and all the rest of it, but he also has the data and information and that sort of nitty-gritty arsenal of information at his disposal? Can I ask him to clarify that?

245 **Hon. N F Costa:** Mr Speaker, the hon. Gentleman likes to test my memory first thing in the morning, but I think I can clarify the position.

The hon. Gentleman is right to say that one of the primary roles which will be discharged by Mr Finlayson, will be to introduce possible business opportunities to the Gibraltar Tourist Board and to the Gibraltar Government. As I have said, as a result of the extensive professional experience that he has had in the flight industry – he even was cabin crew from 1997 to 2004 for various long and short-haul flights and, as I said, he has a Masters in Transport Management... So as a result of all of that and having worked on the administration side and on the actual flying side of the business, he does know a wealth of people who we in Gibraltar would not necessarily have the contact. So yes, he is a *vital introducer* of potential business.

255 Secondly, as to whether he is attractive: yes, he is a very attractive proposition, precisely because he does have, by virtue of his own studies, an erudition – data and information – which he is able to put together in a very attractive brochure to send to all of the airlines that we wish to attract to Gibraltar. I believe that was the extent of my supplementaries to date. (*Interjection*)

The third point is that he is not my brother-in-law! I only met him whenever I met him the first time.

260 It is thanks to Mr Finlayson that whereas the personal contacts were held through me and Nicky Guerrero in respect of the new BA flights, it is my opinion that he did clinch that deal by producing and collating data for British Airways that showed that what Mr Guerrero and I were telling the airline as being a commercially successful route anecdotally, he was able to back up by figures because – let’s not make the mistake – airlines will only fly to Gibraltar if they are going to make money.

265 **Mr Speaker:** There is nothing new that I learnt over there, apart from the fact that this is a very attractive man!

Next question, please. (*Laughter and interjections*)

270 **Hon. N F Costa:** But I hope that I remembered everything, Mr Speaker.

Mr Speaker: Well, there is nothing new that I learnt over there.

Hon. N F Costa: Okay. Thank you.

275 **Mr Speaker:** Next question, please.

DEPUTY CHIEF MINISTER

280

**Elliott's Battery development
Public consultation**

285

Clerk: We are now very quickly going to take Question 810, which is to be answered by the Hon. the Deputy Chief Minister.
Question 810, the Hon. S M Figueras.

290

Hon. S M Figueras: Yes, good morning, Mr Speaker.
Can the Deputy Chief Minister confirm, further to the announcement in relation to the new housing development in the area of Elliott's Battery, whether it will be considering the views of the public, particularly residents and other stakeholders in the area, expressed in open meetings of the DPC, and to what extent such representations and the consequent opinion and guidance of the DPC will form part of the Government's process to determine whether the project will go ahead?

295

Clerk: Answer, the Hon. the Deputy Chief Minister.

300

Deputy Chief Minister (Hon. Dr. J J Garcia): Mr Speaker, the Government will indeed consider both the views of the public and the recommendations of the DPC as part of the process to determine whether the eco-housing projects will go ahead at Europa Point. This will be balanced against the housing needs of Gibraltar.

305

Hon. S M Figueras: Mr Speaker, perhaps the Hon. the Deputy Chief Minister could confirm whether there is any chance that the project will *not* go ahead following representations received?

310

Hon. Deputy Chief Minister: Mr Speaker, the placing of the project before the DPC is the start of the public consultation. So now we are taking the views and then we will take a decision.
So the project could go ahead, or it could not go ahead. Yes, that is the correct position.

315

Hon. S M Figueras: I am grateful for the answer.
In the announcement of the project the Government – I will use two microphones... far better. *(Laughter)*
In the announcement of the project, the Government confirmed, indeed, that the project was going through the DPC for opinion and guidance. However, there is precedent, or rather there was some confusion in respect of what it meant to go to the DPC in respect of another issue earlier on in the year, but specifically in relation to Grand Battery, I would be grateful if the Deputy Chief Minister could confirm, or rather could clarify whether, by virtue of going to the DPC whether it is in fact – and I know he said it, but I just want to ensure that there is no confusion in this specific respect – whether going to the DPC means going beyond just the Committee of the DPC itself by a round-robin e-mail and beyond to a public consultation and public meetings?

320

I am aware that there have been public meetings. I would like to pin the Deputy Chief Minister onto whether or not the public opinion – as if the project were going to the full planning process – is going to be taken fully on board and whether that opinion, if there were significant strength of it, would actually result in the mothballing of the project in its entirety?

325

Hon. Deputy Chief Minister: Mr Speaker, what I can confirm at this stage is that the Government will take a decision, taking on board the views of the residents and the views of the DPC, and then will decide whether the project will go ahead or not. That is the whole purpose of the exercise.

330

Clerk: Question 697.

Mr Speaker: The Hon. Daniel Feetham.

Hon. D A Feetham: Yes, just on that. I have got a number of supplementaries here. I have got a question on the Order Paper later on for the Chief Minister. I might as well ask you, given that we are advancing, my

learned friend, Mr Figueras, has asked his question and we are advancing it.

335 Are you saying that... you answered first... You said one has to balance the views with the housing needs
of the community, and I quite understand that. At the end you said you have got to balance the views of the
DPC with the views of the residents. (*Interjection*) Is the Government's... Well, that is what I heard you say
at the present moment. Is the position that, of course, the Government will take into account the views of the
340 residents but, at the end of the day, one must balance that with the housing needs of the community and it may
well be the case that the housing needs of the community are such that you have got to, in an appropriate case
– I do not know whether it will be this one – ignore, or it will trump, the views of the local community
because of those needs?

345 **Hon. Deputy Chief Minister:** Mr Speaker, I think what I said was that we need to take into account... the
Government will take into account both the views of the DPC *and* the views of the residents, on the one hand
–

Minister for Enterprise, Training and Employment (Hon. J J Bossano): And then take a decision.

350 **Hon. Deputy Chief Minister:** – and then take a decision as to whether the project goes ahead or not. That
is what I said.

Hon. D A Feetham: I understand what you said at the end, but I am just trying to understand the way that
the Government actually sees this operating, not only in relation to this but in relation to other projects.

355 You may – Sorry, he is... the honourable... I do not mind giving you a moment to discuss it between you.
No.

I quite understand what you have told me about the views of the DPC. Of course, the DPC has to provide
its views on pure planning aspects, because that is what they are there for. Pure planning aspects. The
360 residents will provide their views in terms of the impact on them, but there is a third element that is
particularly important in the context of Gibraltar, where land is limited, and of course, very often it does not
matter where one builds, there is going to be an impact on the people around.

Does the hon. Gentleman accept, therefore, and is it part of Government policy that one needs to take into
account the housing needs of this community and, in appropriate circumstances, the housing needs of the
365 community will trump the views of people around? That is what I am asking.

Hon. Deputy Chief Minister: Mr Speaker, in this particular case, I think the Government needs to listen
to the arguments being put forward first, so the whole idea of going to planning is to start the public debate on
the issue. That has now started. We are listening to the views of the DPC, to the views of residents, and then
we take a decision. So the matter is open at this stage.

370

Clerk: Question 697 –

Mr Speaker: No, no, I think the hon. Gentleman has another question.

375

Hon. D A Feetham: Yes, and the other question, which I was going to ask the Chief Minister: did you
consult the residents of the area around Grandy Close before you made your announcement as to eco-housing
and, if not, are you effectively setting a precedent for the future, that the consultation exercise will take place
as part of the planning process and there will not be any consultation beforehand with residents of the area?

380

Hon. Deputy Chief Minister: Mr Speaker, the policy of the Government is that, in relation to these large
projects – particularly housing ones – the act of going to planning is the start of the public consultation.

So what we have done with these cases is to announce them beforehand, they come out on the DPC
website before the meeting takes place, and people are then free to come and express an opinion, either at the
DPC itself or in writing, as many have done. Many people have written to the Government. We take all that
385 on board in coming to a decision on whether the project then proceeds or not.

Hon. D A Feetham: Yes, so effectively, Government policy is there will be no consultation prior to the,
prior to effectively, the planning process, because that is the formal consultation. That is the position, is it

not?

390

Hon. Deputy Chief Minister: In relation to these housing projects, the formal consultation starts at the point of making the announcement and going to planning and then people are free to write in, express opinions, have meetings, and the Government then takes a position.

395

TOURISM, PUBLIC TRANSPORT AND THE PORT

Gibraltar Tourist Board

Costs of new lifeboats and trailers

400

Clerk: Question 697, the Hon. D J Bossino.

405

Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port advise this House what the costs of the lifeboats and trailers, recently purchased, reportedly, by the Gibraltar Tourist Board was?

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

410

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, this information is already available to the hon. Gentleman on the Government's website.

Clerk: Question 698 –

415

Hon. D J Bossino: Mr Speaker, if I may, can the Minister... and I do appreciate what the rules say, so I will not pursue that line of enquiry. If the Minister is willing to indulge me as he did yesterday and provide me with information... but he may not have it with him, because he has a prepared answer with him, but I take the point, and I will look at the Government website.

The question I was going to ask is what, if any – I am not aware that there was any – tender process was undertaken in relation to the purchase of these items?

420

Hon. N F Costa: Mr Speaker, I do understand that the gentleman was obviously too busy to look at the Government website, but I do have the figures for him and I shall give them to him.

The total cost of the new boats and trailers was £5,730. It does give me the opportunity to also tell him that, as a result of advice received, we approved the purchase of trailers and sand tyre kits to avoid the deterioration and the need for continuous repairs to the boats, as unfortunately happened with the last ones.

425

There were three quotes obtained. The successful company was a local company.

430

Hon. D J Bossino: But is it the case – by way of clarification, Mr Speaker – that, so that I understand the response that there was no...? I can understand the Tourist Board seeking and obtaining those quotes, but presumably there was no formal tender process.

435

Hon. N F Costa: Mr Speaker, given the extremely low amount of £5,730, it was not deemed suitable, appropriate – indeed a waste of time – to go through a formal EU tender process, which would have taken months. Yes. It takes a very long time. We are talking about three lifeboats, a very low sum. I trust the members of the Gibraltar Tourist Board to be independent and fair when deciding which company to go for. They sought three quotes and they went for the best quote that, in their view, was available to them at the time.

440

Hon. D J Bossino: Mr Speaker, can the Minister answer whether it is the Government's view that it will only go to tender when there is an EU requirement? As I understand it, it does not necessarily have to be the case, if it is just for local purposes. But I have to admit that I am ignorant of the law in this respect.

Hon. N F Costa: No, Mr Speaker, that is not the policy of the Government. What I have said is that, as a

445 result of the very low amount of the cost, it was decided, on this occasion, not to go through the formal tender procedure and simply obtain three quotes.

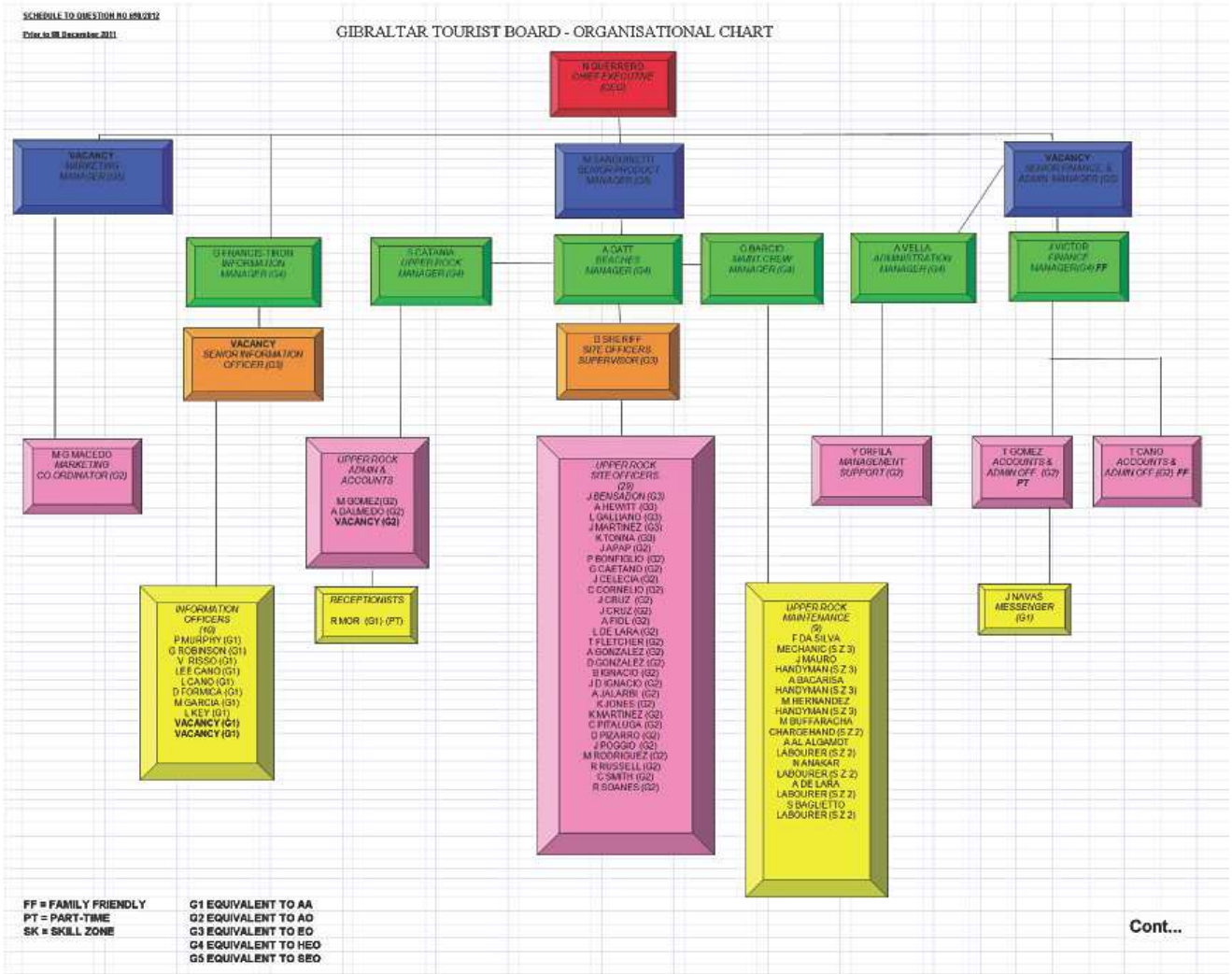
450 **Gibraltar Tourist Board
Restructure**

Clerk: Question 698, the Hon. D J Bossino.

455 **Hon. D J Bossino:** Can the Minister for Tourism, Public Transport and the Port provide full details of the restructure that the Government has carried out at the Gibraltar Tourist Board?

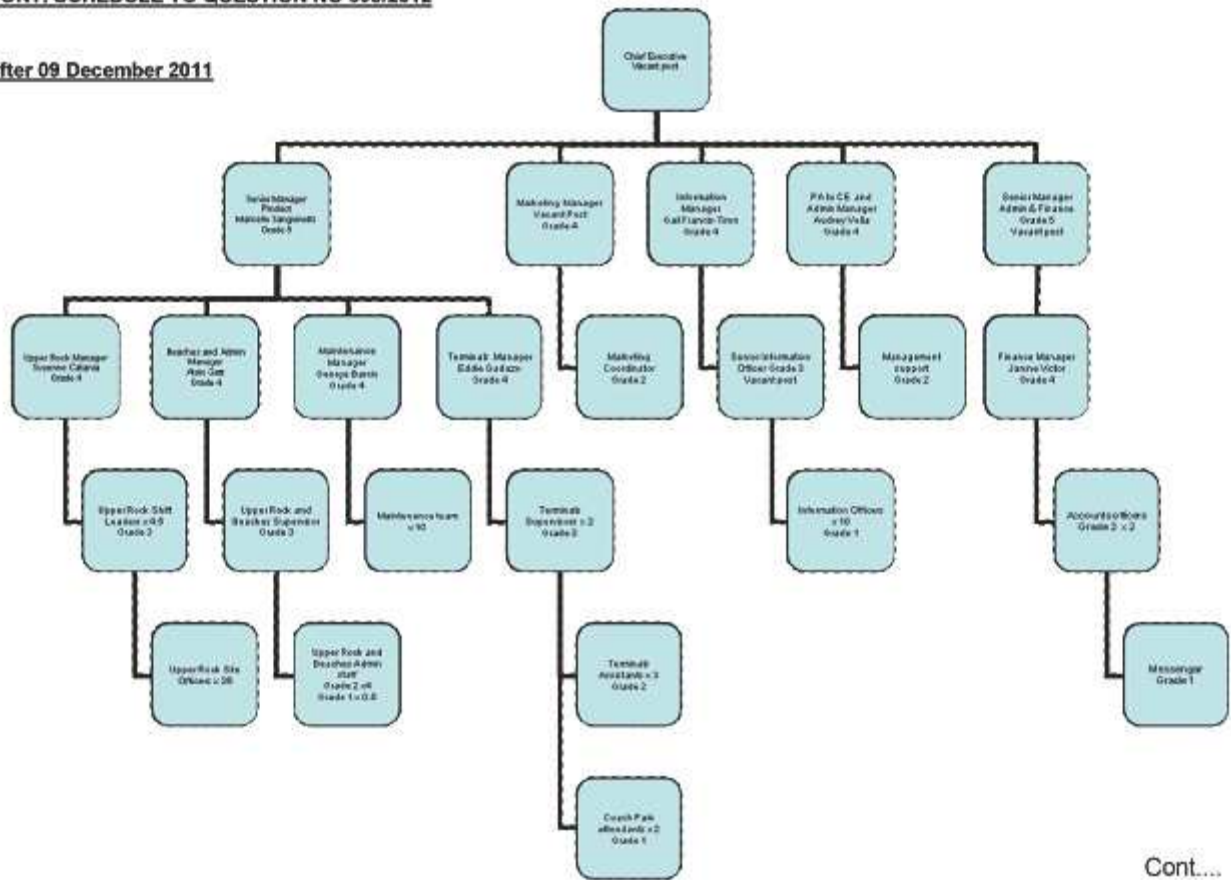
Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

460 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, I now hand over to the hon. Gentleman the information requested on the Gibraltar Tourist Board as it stood prior to 9th December 2001. I also hand over an organisational structure of the GTB as it stood after 9th December 2001 and a diagram of the current state.

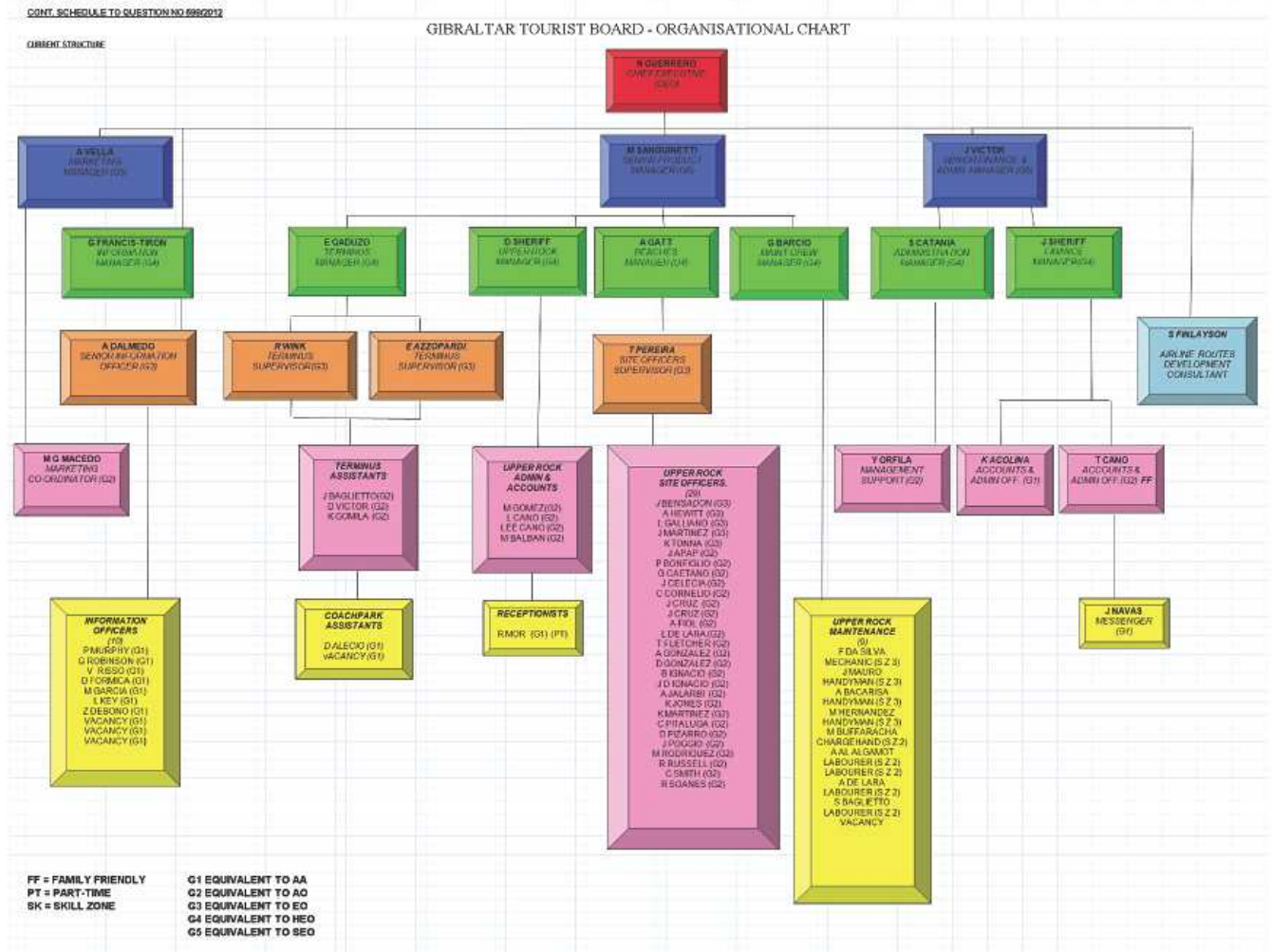


CONT. SCHEDULE TO QUESTION NO 698/2012

After 09 December 2011



Cont....



465 **Hon. D J Bossino:** Just by way of clarification, for the record, I think the Minister was intending to refer to 9th December 2011, rather than 2001.

Hon. N F Costa: And 11, yes... Not 2001.

470 **Hon. D J Bossino:** Just bear with me a moment.

Mr Speaker, there is a lot of information which the Minister has kindly provided to me, which I will study, I think, when I am back in the office, but I think – I am hopeful – that what I am seeing will be very useful indeed, just so that the public listening in or in the Public Gallery is aware, what I have been handed is an –

Hon. N F Costa: Organisational chart.

475 **Hon. D J Bossino:** – Organisational chart with nice colours and I am sure that will assist. I am all for that type of thing, and I am sure that will assist my understanding. In fact, one of my supplementaries was going to be the difference between one and the other, so I am very grateful to the Minister for anticipating my supplementary.

480 But can I just press him further, if I may? He did say in his Budget speech that the restructure of the Board had been undertaken in order – and I quote him – ‘to enhance the responsive approach of the Board in attracting visitors to Gibraltar.’ So therefore there was a very clear purpose behind the restructure of the Board, which I myself, as I have just said a few moments ago, have not had the opportunity to analyse, but I

will.

485 Now, in relation to that, is he satisfied now whether that restructure is fit for purpose? (*Interjection by Hon. N F Costa*) Whether that restructure is fit for purpose, Mr Speaker, and whether he thinks that it has met his requirement?

490 **Hon. N F Costa:** Mr Speaker, I think it is fair to answer this question by telling the hon. Gentleman that the restructure has only been in place for nine months. As a result, whereas it is my view that it is currently working well, I always have in mind different ideas formulating in my head as to perhaps how things may be further tweaked to better the response of the Gibraltar Tourist Board. On that I rely on the advice of my officials.

495 So the answer is yes, so far, so good. Could it be bettered? Perhaps, but at this moment, things are in my view working well.

500 **Hon. D J Bossino:** Presumably, Mr Speaker, the Minister stands by his statement, that as far as *he* is aware – I appreciate that this could be work in progress – but the way that things currently stand, he still stands by his statement that the restructure has enhanced, from the position as it was prior to 9th December, the responsive approach that he was talking about in his Budget speech.

505 **Hon. N F Costa:** Yes, Mr Speaker, I very much think so, and given that we are led by results, the fact that we have been able to, as I said – I mentioned the Birmingham route, I have mentioned the Manchester route, I have mentioned the BA flight – I believe all of that has been... the speed at which we moved on those issues, I believe, is partly due to the restructure that was effected. There were other things, of course: the fact that we have been able to allocate what we think is a fair amount of capital expenditure, which is the £1 million, for this financial year, in terms of the existing tourist attractions on the Upper Rock. We intend to start the capital expenditure on that, which has been, as the hon. Gentleman knows, quite neglected for quite some time, and as I say, that is because it is my belief that my ministry, my office is obtaining the right advice from the Gibraltar Tourist Board.

510

Clerk: Question 699 –

Mr Speaker: The Hon. Edwin Reyes.

515

Hon. E J Reyes: Mr Speaker, can I please ask for a little clarification?

The first page shows the organisational chart, headed 'Prior to December 2011'; the last page, that is the third one, says 'Current structure', so one can take it that the date is today's meeting; but the one in the middle says 'After 9th December'. I am a bit lost. From 9th December to today is a nine-month period, so can I hone the Hon. Minister a little bit more to more or less what date he is referring to?

520

525 **Hon. N F Costa:** Mr Speaker, if the hon. Gentleman has had the opportunity to consider the diagrams in time – I appreciate, of course, he has not; he has just received them – he will see that we took the view that Terminal Management should be part of the Tourist Board and not part of Transport, because we believe that Terminal Management would have, being on the ground, the sort of specialist knowledge that the ministry would require to be able to formulate marketing policies and tourist policies. So Terminal Management is brought back into the Tourist Board after 9th December.

530

**Hotel development proposal
NAAFI pool area**

Clerk: Question 699, the Hon. D J Bossino.

535

Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port advise this House what developments there have been, if any, in relation to the proposal to build a hotel by the NAAFI pool area?

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

540 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, as I understand the position, the proposal made to the previous administration, according to the promoter of the project, was on the basis that he had been promised that the landlord would provide the land free of charge, as long as he paid for the re-provisioning of the NAAFI pool at the estimated cost of £1 million. The promoter was informed by this administration that the land would not be provided for free and he has not returned since.

545 **Hon. D J Bossino:** Mr Speaker, that is, in fact, not the entirety of the information that I have been given. In fact, I think the view taken by the previous GSD administration was that this was, indeed, a very attractive proposal. As I understand it, there was going to be an investment of some £50 million in building the hotel, which would have had – we thought at the time – untold knock-on benefits, in terms of employment and the provision of other facilities and amenities in the area.

550 I also understand that it could have been a three- or four-star luxury hotel and, in this connection, can I ask the Minister, who in particular within the Government did the investor have contact with? ... Was it with the Minister with responsibility for tourism?

555 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** No, Mr Speaker, it was with me.

Hon. D J Bossino: Right.

560 Can I ask why it is that that was the case, instead of the Minister for Tourism? Is it because the Minister for Employment is also responsible, I think, for inward investment? Was that the view taken by the Government?

565 **Hon. J J Bossano:** That is correct. The person wanted to bring in money to invest in Gibraltar and asked for an appointment to see me, and I saw him.

Hon. D J Bossino: Can I ask the Minister for Employment etc – I do not know what the full responsibility is –

570 **Hon. J J Bossano:** Inward investments.

Hon. D J Bossino: – inward investments, thank you – where he met the potential investor?

575 **Hon. J J Bossano:** Certainly. (*Laughter*) I do not think it makes any difference to the decision but I met him in the Employment Department. He was in London, he contacted me through the London Office, he said that he had been given the run-around by the GSD administration for years without being given any straightforward answers, and since I am notorious for giving straightforward answers I asked him to come down to see me, to the ETB – and I gave him a straightforward answer.

580 **Hon. D J Bossino:** Mr Speaker, the straightforward answer given by the Hon. the Minister was... Can he confirm, or can he clarify, for my purposes, whether it was in response to the proposal which I briefly outlined as a preamble to one of my previous supplementaries? In other words, the £50 million investment and all the other things that I mentioned earlier, and was that his flippant response?

585 **Hon. J J Bossano:** I do not know whether the response is flippant or not, and I do not think the hon. Member is entitled to pass judgement on the nature of my responses. That is not what he is here for. He is here to obtain information. I can think *his* questions are flippant, but I do not tell him that.

590 Let me say that, in fact, Mr Speaker, the gentleman in question produced some artist's impressions of these things. If he has had any previous knowledge of the way these things work, he will know that the fact that somebody brings a pretty picture of a hotel and says it is going to cost £55 million is not, of itself, an indication that there is anything solid, because there was nothing produced in terms of where the tourists were going to come from, what would be the costs of operating, where he was going to get the labour from, or anything else. The essence of the thing was that the clinching factor was whether he had to pay for the land or

595 not, and the gentleman told me that he had been promised by Mr Holliday – he might have been making it up,
for all I know – that he could get the land free, provided he spent £1 million on reproviding the NAAFI pool
because one of the conditions was that the land would transfer to the Government but a NAAFI pool had to be
reprovided, and that he had been told that if he took on the cash responsibility for reproviding the pool at his
own expense, then the land would be given to him on a long lease without any further payment. I said, ‘Well,
600 look, unless you can produce something in writing which is a binding commitment which we have to honour,
the answer is we do not agree with that.’ He then told me that unless the land was provided free, the
investment would not work. So, that if he had to pay the market value for the land, then it was a no-go. He has
not come back with any alternatives, but if he came back willing to pay for the land, or if he came back
willing to pay for some other land, then we would reconsider the proposals.

605 He is an important customer of Gibraltar because he actually brings quite a lot of people and his main
argument for the hotel, as he explained it to me, was that the other hotels in Gibraltar are charging him too
much for his package tours and that he wanted to have his own hotel in order to put in his own customers. We
are interested in having the hotel, we are interested in him investing the money, but of course if we are
offering people land for nothing in Gibraltar we will have a long, long queue of investors.

610 **Hon. D J Bossino:** Mr Speaker, if the reason for pouring cold water over this particular potential
investment, which I think, I am given to understand, reached quite an advanced stage when we were in
Government, to the extent that there were formal plans which had been reviewed by the Town Planner and
there had been a series of negotiations with senior people – and it may have been also the Minister, I am not
too sure, but certainly senior civil servants within the Department of Trade and Industry... So there had been
quite a lot of work and I think the view taken by the Government was that this was a serious investment
615 *[Interruption by mobile phone]* ...a sort of fly-by-night matter and, in fact, there had also been negotiations
with the Ministry of Defence in relation to the land where the hotel was going to be located.

I am not too sure, Mr Speaker, that, if I have understood the Minister correctly – and no doubt he will
correct me if I have not – what he has said is entirely true, in the sense that there was an understanding on
behalf of the investor that the investment in Gibraltar would require a payment of a £1 million outlay in
620 relation to the premium over the land. So that was understood and the land was not going to go for free to the
investor, but I am sure the Minister will clarify the position to this House.

625 **Hon. J J Bossano:** Mr Speaker, I do not know the source of the information of the hon. Member opposite.
I do not know whether it is that the investor has been in touch with him and told him these things, or that
somebody in the Government has been in touch with him and told him these things, because he was not in
Government before so he cannot possibly know what was happening before any more than I do.

I know nothing of any of the things that he is telling me, and I can tell him that the investor that came to
see me did not appear to know anything about those things either, because if he did he chose not to tell me.
He did not use any of the arguments that the hon. Member has used in support of the investment... was used
630 by the investor.

The investor used three arguments. One was that the shortage of hotel beds meant that he could not bring
more people and that, anyway, the shortage of hotel beds was having an effect on the price of the beds and
that meant that he was having a problem in the charges that he had to put on the package holidays and that he
could bring more people and bring them at a bigger profit if he could have his own hotel – which is fine. But
635 it does not mean necessarily, when you look at that, that that is going to be, whatever the investment is, is not
going to be in that scenario, a net gain. It may be a gross gain, that you gain x number of hotel beds but, of
course, if some of those... If there are 23,000 people that he brings – so he told me – and those 23,000 people
are a big chunk of the hotel beds we are now selling, if they are just shifted to a new hotel, then I am sure he
can see that that is not necessarily a scenario in which we gain 23,000 extra sales, because it will be at the
640 expense of what is being sold already. I am giving the hon. Member the information that I was given by the
investor. I have no other source.

He then said that the viability of the hotel – which is odd for a hotel which is £55 million – was not on
once I told him he had to pay whatever the LPS, or whoever, decides the land is worth, that re-provisioning the
swimming pool, which was estimated to cost £1 million, would not be sufficient.

645 So the answer is that *he* told me that he had been given the run-around by the previous administration. He
had been made a lot of promises that had not been delivered, from meetings that had never materialised... and
that he was on the point of giving up, and that because there had been a change of Government he had

contacted the London Office and said, 'Well, look, is it worth me trying again?' because he has got a commitment to Gibraltar.

650 Certainly we want to encourage him to keep on using Gibraltar and keep on bringing people here but, at the end of the day, there was nothing of the nature of a detailed business proposal put before me and the impression I got from him was that he had talked to the MOD, that he thought the understanding was that the MOD would pass the land to him, which I told him would be, in fact, in conflict with the long-established principles under the Lands Memorandum – that land is given to the Government of Gibraltar and the Government of Gibraltar gives it to whoever it has to go to, that there is not a direct movement from the MOD to the developer, and I am not aware whether that has happened on any occasion, but it certainly did not happen in the past – and that therefore it was quite simple: if he could come up with a proposal which included a price, meeting whatever the price for the land was, either there or somewhere else, we will consider it.

660 We have not told him we do not want him here. We have told him we are not... If the condition for you proceeding with this thing in Rosia Bay is that the net payment that you make is whatever it costs you to put the swimming pool somewhere else, then that land is not available on that basis. If the land was available on that basis, I think we would have to then announce that there is land available and open it to others, but if the man comes along with a specific proposal that is for a hotel to expand the traffic he is bringing to us, which is interesting and good but it is not enough to say, 'Okay, we will make a direct allocation without giving any other party the opportunity of using that area and on the basis that we are not charging for the land.'

665 He claims that that is what was on offer before. I told him that if he could produce written evidence of that, then we would have to see whether there was a commitment. If there is any evidence that the matter had proceeded along the road, as the hon. Member claims – and he knows how I can establish that – and he passes me the information, fine, I will look at it again. But my source of information is the client and the client did not claim what *he* claims, but if there is evidence that there was a commitment and that we should be honouring it, we will look at it again because we believe that the commitments that are given by one Government have got to be considered by the succeeding Government.

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**Lester Hotel, Devil's Tower Road
Progress of development**

680 **Clerk:** Question 700, the Hon. D J Bossino.

Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port advise what progress has been made, if any, in connection with the development of Lester Hotel at Devil's Tower Road?

685 **Clerk:** Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, in the absence of payment of the application fee, the planning permit drafted on 28th June of last year has not been issued.

690 **Hon. D J Bossino:** So do we take it from that, that the investor is the Lester Hotel Group that was going to build this hotel. Presumably they have no interest in the matter now?

695 **Hon. N F Costa:** Mr Speaker, as I say, on this question I spoke with the Town Planner, who explained to me that the planning application had been approved by the Development and Planning Commission, but that the planning permit has not been issued given that he has not paid the planning fee or the premium for the site. He has not come back, essentially.

700 **Hon. D J Bossino:** Has the Minister with responsibility for tourism had any contact with this investor, trying to find out why it is that the matter has not progressed?

Hon. N F Costa: No, Mr Speaker, since the Election there has been no contact by the applicant's agents with the Town Planning Office. Remember, that this was already before the DPC and approved, so any

progress would have had to have been from them by paying the fee and getting on with the works. There was nothing else to discuss.

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Clerk: Question seven hundred and –

Hon. D A Feetham: May I, please?

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Mr Speaker: Yes, the Hon. Daniel Feetham.

Hon. D A Feetham: Mr Speaker, may I ask the Hon. the Minister, doesn't he accept that, as I understood the answer, there are two separate aspects to this? Or perhaps I am wrong. One is the planning fee; the other one is the premium. The planning fee goes to the Planning Department; the premium goes to the Government's agents, LPS, so it is a matter for the Government. Is the position that both are outstanding?

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Hon. N F Costa: Yes, Mr Speaker.

Hon. D A Feetham: And no-one on behalf of the Government – their agents or otherwise – has actually been in contact at all with these investors and said, 'Well, hang on a minute, why haven't you paid this particular premium?' Nothing at all? No contact?

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Hon. N F Costa: Mr Speaker, once again, the application has already been approved by the Development and Planning Commission and there is a permit laying in wait, drafted on 28th June, and all that the developer has to do is go in, pay the fee and pay the premium for the land. If they were to do that, they can forge ahead.

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The fact that they have gone through the planning process and have not paid the fee nor the premium for the land would seem, to me at least, to indicate a loss of interest, because they know that they have got the approval, they know that they can start, and they have not done anything about it.

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Hon. D J Bossino: A loss of interest, Mr Speaker, he says, which is rather odd in this context. If he is able to confirm, if he knows, if he has enquired about it, is he aware that this developer actually purchased the land on which the hotel was proposed to be built? So, basically, as far as that side of matters is concerned, there was certainly a rather key level of commitment to proceed with this project.

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Hon. N F Costa: Mr Speaker, as I said, this was an ongoing project of the previous administration, so I obviously had to contact officials for them to provide me with the advice. The advice that I have been given is that the planning permit was not issued because neither the planning fees nor premium for the site have been paid. That is the information that I have.

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I remind the hon. Gentleman too that the planning permit was drafted on 28th June 2011. I imagine, given that he is pressing *me* about not contacting *them*, given that it was so important and it was drafted in 2011, Mr Holliday would have had to have contacted them in July, August, September, October, November and December to ask, 'Why haven't you paid the fee?' They did not. It has not happened. He can ask *him*.

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Hon. D A Feetham: Well, I am afraid that you are in Government; therefore you have to take responsibility for Government affairs. *(Interjection by Hon. N F Costa)* No, hang on a minute, no.

Does the Hon. the Minister know by when, under this particular contract, that premium was payable?

Hon. N F Costa: No, Mr Speaker.

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Hon. D A Feetham: If he does not know under the contract and he has not bothered checking when that...

Hon. N F Costa: Perhaps you should have given me written notice of the question.

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Mr Speaker: Order! Order! Order!

Hon. D A Feetham: Please may I –

Mr Speaker: Of course.

760 **Hon. D A Feetham:** This was not supposed to be contentious. We are trying to just elicit information here.

If he has not bothered checking the contract as to when the premium is payable under the contract – because premiums and fees for planning are quite separate issues altogether – how can he sit there and then turn round and say that *we* ought to have spoken to the Minister for –

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Hon. N F Costa: The *former* Minister.

Hon. D A Feetham: The previous Minister, when the reality is that perhaps the premium had not actually been payable prior to December. I do not know. Does he know?

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Hon. N F Costa: Mr Speaker, with respect, this is a preposterous question.

The progress of this particular project lay on the table of the former Minister for Tourism and Transport, Mr Holliday. No fees have been paid. Whether or not they are payable, no fees have been paid. The premium for the land has not been paid, whether or not it has been payable under the contract, but particularly importantly I would have thought, given the importance the hon. Members opposite now appear to have for this particular project... If it is so important for them now, surely they would have been urging Mr Holliday to have got on the phone to the developers at the time in July and in August and in September and in October and in November and in December of *their* administration, but they clearly did nothing because the fee has not been paid!

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We have been in Government since December. No fee has been paid, no premium has been paid. They were in Government when they were seeing the project through. The last stumbling block, it would appear, would be the payment of the fee. I do not know whether Mr Holliday called or did not call, brought them for coffee or for lunch or whether he cycled to work or he didn't, but what I can tell him for sure is that it was not progressed to the point that there has been any progression of the works. (*Interjection*)

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Which is, by the way, Mr Speaker, the question. The question is whether there was any progress in connection with the development, and the question falls at the first hurdle, which is no fee has been paid for the planning permit, so there cannot be any progress. (*Interjection*) The question has certainly been answered.

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Hon. D A Feetham: Is the position of the Government in relation to this that because the premium has not been paid, the investor is in breach of its obligations and therefore the Government has decided not to honour whatever commitment there may have been by the previous Government in relation to this particular project?

Hon. N F Costa: No, Mr Speaker, that is not what I have said. I have already told him.

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Hon. D A Feetham: We are all at sea.

Hon. N F Costa: No, we are not all at sea.

That is not at all what I have said, so he cannot extrapolate from my answers or interpret them in the way that he suggests, because I have not said that.

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Hon. D A Feetham: So is the position, then, that if the premium is paid – and the fee is payable to the Department – these individuals will be allowed to continue with the development?

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Hon. N F Costa: Mr Speaker, I can answer that very simply by saying that this Government will honour whatever contractual obligations arose from the previous administration.

Hon. D A Feetham: We do not know what the contractual obligations are.

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Hon. N F Costa: Well, absolutely, which is why if he does not know and I do not know about them, instead of asking questions about an invisible piece of paper that neither of us have read!

Clerk: Question –

Hon. D J Bossino: Mr Speaker –

815 **Mr Speaker:** No, the Hon. Damon Bossino.

Hon. D J Bossino: I am grateful, Mr Speaker.

820 The Minister makes reference to Mr Holliday. I am not in a position now to get that information for him, although I do understand that contact was made and he talks about telephone calls and all the rest of it. Given that he has implied, by admonishing the previous Minister in post for not having done those things, I think what my hon. and learned Friend Mr Feetham is seeking to elicit from the Minister is whether he himself has taken an interest, given his responsibilities, to establish what the reason has been for the matter going cold.

825 We are now facing, as a result of these two questions which I have posed, a situation where there have been two potential investors – two potential investors who were each going to build a hotel which, for one reason or another, has not happened since 9th December. So that is why I am now slightly concerned that the Minister responsible for this area of Government policy appears not, Mr Speaker, to have taken it upon himself to make what I think... what he himself considers to be the relevant and pertinent enquiries if he has been put on notice of the fact that there could be a loss of interest on the part of this investor.

830 At the end of the day, they are building a hotel in Gibraltar. Let's not forget that. They are making an investment in Gibraltar.

Hon. N F Costa: Mr Speaker, if he has a question I can answer it, but –

835 **Hon. D J Bossino:** They are making an investment in Gibraltar.

Hon. N F Costa: – the preamble is so long I will no doubt forget.

Hon. D J Bossino: Mr Speaker, I do acknowledge that my preamble –

840 **Mr Speaker:** I must ask you to ask the question.

845 **Hon. D J Bossino:** And I am couching this question in a rather lengthy way, but I would seek your indulgence, because I do not normally do that, Mr Speaker. (*Laughter and interjection*) The record is there, in relative terms! (*Laughter*) But, given that, is the Minister... I am just concerned whether he does not think that, given that he was put on inquiry that there may have been loss of interest by the fact that there has not been a payment of this planning fee, why it is that he has not made those inquiries himself?

850 **Hon. N F Costa:** Mr Speaker, the rather lengthy supplementary presumes too many things that I really do not care to answer, but even his question presumes something which is not true.

855 On receiving notice of this Question, the first thing I did was to call in the Town Planner and the officials who are relevant to the planning application etc and ask them what the state of play was. Given that I found out that there was this interest in building a hotel on that site, I went to the website and obtained the press release and that press release from the Lester Group said every effort would be made to minimise the carbon footprint of the new building – very exciting for us already; the Minister for the Environment certainly was leaping for joy there – and work is expected to commence in early summer 2011.

At the time that I received notice of the Question, as I said, I looked at this press release, I brought in the Town Planner and I have given instructions to my officials to find out whether there is still an interest on this or not.

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**Cruise liner terminal
Construction of new terminal**

865 **Clerk:** Question 702, the Hon. D J Bossino. (*Interjection*) It is 702. (*Interjection*) It is 702 because 701 is to be answered by the Chief Minister.

870 **Hon. D J Bossino:** Can the Minister for Tourism, Public Transport and the Port advise what the Government's plans are in relation to the cruise liner terminal and, in particular, whether it has the intention of proceeding with the construction of a larger and better-resourced terminal?

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

875 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** Mr Speaker, the Government is considering a number of options in respect of its cruise facilities. These include determining whether a new cruise terminal structure is actually required and, if so, the size and the facilities it should have. All the cruise lines are being consulted on what they expect of a modern cruise port and the Government is taking due note of the feedback received. Once all of this data is collated, the Government will make a decision on the best way forward to ensure the needs of Gibraltar's cruise industry are met for many years to come.

880 Consultation with *local* operators, however, has already revealed that in their professional view a new cruise liner terminal at the North Mole is entirely irrelevant to attracting additional calls or to attracting new companies. Further, a discussion I personally had with one top executive, of what everyone would agree is probably one of the most important cruise companies said to me, over dinner, in no uncertain terms, that the existing terminal was perfectly adequate and that funds were better spent elsewhere – a sentiment with which I, in fact, do fully agree, subject to finalising the above consultation process.

885 **Hon. D J Bossino:** Mr Speaker, I am very quickly coming to the view that, unfortunately, the new Government is labouring under the same difficulty that they say that we were labouring under, which is that life started on 9th December 2011.

890 Is he aware and has he made the relevant enquiries in this respect, Mr Speaker, that in fact there had *already* been undertaken a rather lengthy process of consultation in relation to the cruise liner terminal, and is he aware that, in fact, there were already advanced plans when we were in Government to proceed with the building of a new terminal, in fact that it was poised and ready to go out to tender? Is he aware of that?

895 **Hon. N F Costa:** Mr Speaker, I am aware of many things, some of which are as follows.

900 The first is that I do not think that life began on 9th December, for the following reasons. I do know that there were plans quite developed, because I remember the former Minister for Transport, Mr Holliday, giving a press conference about this – I do watch the news – amongst my personal contacts with tourist companies. The overall budget for that construction of the new building was around £3.8 million, just at the threshold so that they did not have to go to EU tender. Interesting point, that.

905 The design costs were £160,000. *The design costs were £160,000* for a design which all local operators in Gibraltar tell me is entirely irrelevant to bringing new calls and new companies to Gibraltar: £160,000 thrown down the drain without consulting the experts in the industry. As I have already told him, one particularly renowned executive of the cruising world has told me, 'Don't waste a penny on a terminal because the one that you have is perfectly wonderful and it does the job' – envisaged by the old GSLP and brought to fruition by the GSD in 1997.' (*Interjection by Hon. D A Feetham: Old GSLP... laughter*)

910 So if we are going to take leave from someone, Mr Speaker, we shall take our cues from the people on the ground – or at sea, in this particular case. They know what they are doing and if all local operators are telling me, 'Don't spend a dime or a penny on something which is not needed,' we certainly will not do so.

Hon. D J Bossino: We seem to be living in parallel realities.

Hon. N F Costa: Thank God, Mr Speaker!

915 **Hon. D J Bossino:** Well, we will be the judge of that after the three years which are now left. (*Interjection*) Yes. Thank you for that contribution!

920 Is he aware... and I understand that this is what informed the Government's decision to proceed with the construction of a new terminal and it concerns me that it has not formed part of the response that he has given to me in this House, and that is: is he aware that, in fact, one of the main driving forces behind the idea to build a new cruise terminal was in order to provide adequate facilities for the what I understand will be the new thing coming into the industry, which is the hop-on hop-off... (*Interjection*) Yes, basically where you can embark or disembark at any point in any given route. At the moment, what happens is that you embark at

a particular point and then you do the tour and then you normally return to that point or to another, but you cannot get off the cruise in the ports in the interim in that particular tour.

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So what the Government wanted to do is to ensure that the Gibraltar port was able to provide the facilities for this service. In other words, that passengers could disembark or embark in Gibraltar port. Is he aware and has that formed part of the decision-making process?

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Hon. N F Costa: Mr Speaker, my advice from those who were involved at the design stage and in looking at the possibility of a new cruise liner terminal advise me that that was not the reason at all. Apparently, the reason for having a redesign in any event was for security aspects and to better that, and there is nothing stopping people from disembarking in Gibraltar getting on a plane and going anywhere, and *vice versa*, right now, as the current set-up is.

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Hon. S M Figueras: Mr Speaker, I wonder whether perhaps the Minister is just missing the point, for no other reason other than he has not been made aware of the developing trend in the cruise industry in that direction. It may well be that the Minister has not been made aware, and if he hasn't, well, then he certainly cannot answer in that regard.

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Could the Minister clarify whether the advice he received was based on anything other than enhancement of the facilities in the regards that he has mentioned?

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Hon. N F Costa: Mr Speaker, in respect of his preface of the supplementary, as he knows... he must know. The hon. Gentleman must know that I have met with 14 cruise companies over the last nine months. They certainly know what they are talking about, I would have thought, given that they are in the business and not one of them has mentioned this idea to me as being necessary for a new cruise liner terminal building.

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As I say, my advice is that of those people who were involved in the design of the new, possible new, cruise liner terminal building and the reason, the principal focus for that was to enhance passenger and security control, and that therefore, I think, importantly for the Hon. Mr Bossino, the consultation was with Gibraltar Port Authority staff, terminal management, security and immigration, which confirms that the design was principally for, as I say, passenger control and security aspects – nothing to do with the hop-on, hop-off ideas that they are extolling to me now.

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Miami cruise convention Value for money

Clerk: Question 703, the Hon. D J Bossino.

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Hon. D J Bossino: Can the Minister for Tourism, Public Transport and the Port advise whether he has come to a conclusion as to whether the Miami cruise convention provides value for money?

Clerk: Answer, the Hon. the Minister for Tourism, Public Transport and the Port.

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Minister for Tourism, Public Transport and the Port (Hon. N F Costa): Mr Speaker, the Government believes that attendance at this specific event does provide value for money, but not at the level of expense incurred over the last several years.

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As the hon. Gentleman knows, the Cruise Shipping Miami Convention, which was known as Seatrade Miami, is the major annual showcase for cruise ports and destinations which is held in the cruise capital of the world and draws tens of thousands of delegates, exhibitors and visitors.

The Government, however, believes, as the hon. Gentleman knows, that its most powerful marketing tool is the personal contact with decision makers, and we say, Mr Speaker, that this is a marked difference between this administration and the previous.

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In March, only three months after the General Election, I visited all the major cruise lines in the week prior to the Convention in order to start the process of establishing personal contacts with itinerary planners. The process is ongoing, Mr Speaker, and both my officials and I are in continuous contact with operators to keep them briefed and up to date on all cruise-related developments in Gibraltar. A stand at the Convention

980 consolidates our position in the public eye, reinforcing the Rock's status as a major cruise port in the Mediterranean. However, the Government is of the view that because the major players now know us personally, there is no need to spend so many tens of thousands of pounds on a huge stand which is better served in providing the sort of hospitality to the decision makers that will make the executives remember Gibraltar and consider us not just business partners but friends they want to do business with.

985 As a result of my personal meetings, Mr Speaker – as the hon. Gentleman knows, because he does give me plenty of opportunities to remind him – I met with the top executives of cruise companies in Miami, followed by my visit of nine cruise companies in the UK. We achieved, Mr Speaker, an increase of nine calls this year, bringing the expected number of calls for 2012 to 180 from the inherited 171 when we came into office. In addition, as the hon. Gentleman knows, we are currently in discussions with such companies to explore tailor-made shore excursions and initial calls.

990 **Hon. D J Bossino:** Yes, he keeps on reminding me about the wonderful things that will come and are coming, apparently, as a result of his policy of personal contact. Of course, I need to remind him also, and he gives me plenty of opportunity to do so, that he is building – and I have used this word before – on a bonanza which was there on 9th December 2011. I can only hope for Gibraltar plc's sake that we continue to succeed in this industry.

995 Simply to add, Mr Speaker – and I will be posing a question – that, of course, to suggest that there was not personal contact when we were in Government is simply not acceptable and we refute that. (*Interjection*). Well, we have a different... Again, parallel realities, Mr Speaker. The question – (*Interjection*)

1000 **Mr Speaker:** Order! Order!

Hon. D J Bossino: The question is what form will attendance at the Miami Seatrade Fair take?

1005 **Hon. N F Costa:** Mr Speaker, in respect of his first point in the preface to his supplementary, talking of a bonanza, I think it was particularly clear and stark in my analysis during the course of my Budget speech that, in fact, cruise calls were in decline. If he wants to reiterate that we inherited a bonanza, he can carry on saying it, despite the statistics. Having said that, I do accept from the hon. Gentleman that cruise calls during the time of the GSD did enjoy a surge for a particular amount of time and we can, of course, continue that, and for the sake of Gibraltar we all obviously hope that there will be an increase in cruise calls and an increase in passenger numbers – I do not think there is any disagreement on that across the floor of the House – but I do not think, Mr Speaker, that the hon. Gentleman really wants to challenge me as to personal contacts and to what I now know happened in respect of the absence of personal contacts with cruise companies. Perhaps the hon. Gentleman, instead of challenging *me* about it, should speak to, no doubt, his colleague, Mr Holliday, as to what were his personal contacts and maybe he can provide him with a list of the number of times he had dinner or lunch or coffee or walked or cycled to work with any of these people and spoke about what was important for the cruise industry.

1015 The way we shall take part in what is now called the Cruise Shipping Miami Convention is simple and it is implicit in my answer. We will attend – the Minister will attend – a few days *before* the Convention to make sure that he continues the personal contacts with itinerary planners and the top executives, and the reason is very simple, because obviously the hon. Gentleman knows that during the course of the Convention it is absolute mayhem when you have tens of thousands... Perhaps what it is, actually, Mr Speaker – I have just realised – is that he is angling for a trip with me to Miami, which, if that is what he wants, he should just ask me and come out and I will consider it. During the course of the Convention it is absolute mayhem. You have tens of thousands – (*Interjection*) There are tens of thousands of delegates who go and put up the stalls; these are people at a medium-tier level of their respective companies showing the wares to each other. There is only perhaps half a day or one day we actually have people from the public coming in. So these are medium-tier employees talking to each other about Gibraltar and all different port calls.

1020 The real business of the world, to call it that, is never done at the Convention. It is done either before or after, so it makes perfect sense to us that we should go, meet the top guys and discuss itinerary planning, tailor-made shore excursions for them, trying to ask them to come to Gibraltar more often, asking them to come and stay overnight, which is part of the legislation that *they* passed when they were in Government and we supported in Parliament, and it is therefore fair enough to have officials staffing the stand at the Convention because, as I say, the top executives hardly attend, and if they do it is already for pre-planned

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meetings, so you do not get to talk to, for example, *Giora Israel* or other top people in the cruising industry because you will not catch them walking down the corridors of the Convention.

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Hon. D J Bossino: Mr Speaker, the Minister really ought to realise... I know he is new to the post and he is young, but the fact is... and maybe he ought to make enquiries about what used to happen before, but the fact is that Mr Holliday would also attend the Convention before it actually started, as he has just mentioned. *(Interjection)*

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Mr Speaker, I do not think I have had a full answer to my question. As I understand it, there are three manners in which participants can participate at the Convention. One is to have one's own stand, which is what we used to do when in Government, and we did that because we thought that that was the best way that we could advertise and market and sell our wares. It is still work in progress: let's see what happens, but I do not have much hope in what the Minister is telling me as to whether it will be successful or not.

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The second way is to have a stand as part of the Medcruise stand, and the third way to participate, as I understand it, is to simply send delegates.

Can he clarify to me – and I think I can justifiably use the word 'confirm' to me – whether the form that participation will be taking in the future is by way of presence of a delegation, as opposed to the other two forms?

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Hon. N F Costa: Mr Speaker, certainly I am young, but I certainly have the wealth of knowledge and experience of the Minister for Employment, who has taught me many things, and I think quite effectively, very soon.

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In order for us to determine whether or not we spend a penny of taxpayers' money on anything has to be subject to stringent criteria and it has to be results-driven and mathematical. If no-one from the Tourist Board or from my ministry can tell me that, as a result of attendance at a convention, there have been any additional calls, then why attend the convention? I am sure that the hon. Gentleman would agree.

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However, I can tell him with mathematical precision, which is demanded rightly by the Minister for Employment, *(Laughter and interjection)* that, as a result of meetings with top cruise executives, following those meetings we have had an increase of nine calls during this year. So, meetings with top cruise executives results: nine additional calls. That is what I would think the taxpayers would demand: that when we spend money – especially where we are shuttling officials and Ministers off to expensive conventions – that they expect a return for their money, and I certainly adhere to that philosophy.

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As I have said in my answer, it is very simple: we will have a delegation – which will basically be me and the chief executive – that will go to Miami to meet the top executives. *(Interjection)* Yes, and then, secondly, for this *particular* fair, we will have a smaller stand at the Convention, manned by officials – staffed, I should say, because there are also women... staffed by officials, to exchange information at the Convention. So it is two-pronged.

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SPORTS, CULTURE, HERITAGE AND YOUTH

Heritage Department training Budget

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Clerk: Question 704, the Hon. E J Reyes.

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Hon. E J Reyes: Mr Speaker, can the Minister for Heritage state what type of training has been/will be undertaken, the cost of which has been/will be debited to the financial provision made in the Estimates of Revenue and Expenditure 2012/2013, as at Appendix K – sub section (45)?

Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

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Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, the time to raise issues such as this, of course, is the time of the committee stage of the Appropriation Bill. Nonetheless, I will

give him the information now.

1090 The Heritage Agency is exploring two ways of providing training from this budget: (1) provision of staff training through work-based higher degrees education in the field of archaeology, heritage and museums management via accredited United Kingdom universities; and (2) short courses in Gibraltar on specific areas of heritage and heritage management by external specialists for Heritage Department staff.

1095 In the latter case, and depending on the subject, there may be room to expand the scope of such courses to include persons outside the Department, such as volunteers and helpers. Over and above this, the Department will continue with its in-house on-the-job training programmes, which are not expected to have budgetary impact.

1100 **Gibraltar Museum**
Waiving entrance fees

Clerk: Question 705, the Hon. E J Reyes.

1105 **Hon. E J Reyes:** Has the Minister for Culture and Heritage considered waiving entrance fees for all visitors to Gibraltar Museum, save for opening during non-standard opening hours so as to bring Gibraltar closer to ever increasing international trends which seek to promote heritage and historical matters?

Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

1110 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, the waiving of entrance fees for all visitors to the Gibraltar Museum is something that at present is not being considered. As far as the Cultural and Heritage Agency is aware, it is *not* an international trend.

1115 **Hon. E J Reyes:** Mr Speaker may I ask the Hon. Minister to please put down on the agenda and consider the waiving of fees. If we look at the statistics available on the Government's website in the first six months of 2012 the income derived from admission fees was just over the £7,000 mark and I do for the record say, that I disagree with the Minister, it is an ever increasing trend to have free entrances into museums and the United Kingdom itself and the Natural History Museum is but one example.

1120 **Hon. S E Linares:** The question, Mr Speaker?

Mr Speaker: Please consider.

1125 **International Folklore Festival Prague Fair**
Details of delegation and costs

1130 **Clerk:** Question 706, the Hon. E J Reyes.

Hon. E J Reyes: Can the Minister for Culture and Heritage provide details of the composition of the delegation, as well as all costs incurred, which attended the International Folklore Festival Prague Fair, held in late August this year?

1135 **Clerk:** Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth

1140 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, the delegation consisted of (1) Myself, Minister for Sport, Culture, Heritage and Youth; (2) Chief Executive of the Gibraltar Culture and Heritage Agency, Mr Carl Viagas; (3) The Gibraltar Culture Officer of the Gibraltar Culture and Heritage Agency Mrs Yvette Zarb; (4) The Director of the Garrison Library, Mrs Jennifer Ballantine.

The total airline costs, including the four of us, were £1,258.00. Accommodation and travel costs during

the festival were kindly covered by the Folklore Association of the Czech Republic.

1145 **Hon. E J Reyes:** I take it, then, Mr Speaker there were no subsistence costs or anything like that also incurred.

Hon. S E Linares: None at all.

1150

**Gibraltar International Jazz Festival
Breakdown of expenditure**

1155 **Clerk:** Question 707, the Hon. E J Reyes.

1160 **Hon. E J Reyes:** Can the Minister for Culture provide further detailed breakdown in respect of the £19,875 expenditure incurred, as stated in his answer to Question No. 602/2012, thereby clarifying exactly how much and to whom payments were made in respect of (a) the stage (b) management fees and (c) presenters' fees, all of which pertain to the first Gibraltar International Jazz Festival?

Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

1165 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, details in respect of the £19,875 expenditure appertaining to the first Gibraltar International Jazz Festival are as follows: (a) the stage – £8,600, Planet Projects Limited; (b) Management fees – £10,000 George Posse, Gibraltar Jazz Society and (c) Presenter's Fee £1,275, James Neish.

1170

**Gibraltar Music Festival
Breakdown of expenditure**

Clerk: Question 708, the Hon. E J Reyes.

1175 **Hon. E J Reyes:** Can the Minister for Culture state who are the members of the Gibraltar Music Festival management board or committee and provide full details of any payments or allowances made to any of its members, stating how much was paid, to whom and in respect of what services?

1180 **Clerk:** Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

1185 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, the members of the organising board or committee are (1) Dylan Ferro, representing Axel Media; (2) Les Roberts representing Axel Media; (3) Owen Smith representing Word of Mouth; (4) Jonathan Scott representing Word of Mouth; (5) Steven Linares – myself – as Minister for Culture; (6) Dennis Cardona appointed by the Minister for Culture; (7) Peter Cabezutto appointed by the Minister for Culture; (8) Daniel Guerrero appointed by the Minister for Culture. Those appointed by *me* did not charge *any* monies for the services they provided.

1190 As for Axel Media and Word of Mouth, the Government is not in a position at this stage to provide any details of payments in respect of the production and organisation of the Gibraltar Music Festival until final receipts are collated. It should be possible to provide this information by the next meeting of Parliament for Questions or earlier.

I would like to take this opportunity to thank all those who took part in any way for having helped the Government stage what has been labelled as the best ever concert in Gibraltar's history.

1195

**Cultural Grants
Commitments given**

1200

Clerk: Question 709, the Hon. E J Reyes.

Hon. E J Reyes: Can the Minister for Culture state what expenditure it has already made, or is firmly committed to make, in respect of cultural grants for which financial provision is made in the estimate of revenue and expenditure 2012/13 as at Appendix K, sub section 13?

1205

Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

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Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, £93,929 has already been firmly committed to date in respect of cultural grants for which financial provisions have been made in the estimates of revenue and expenditure 2012/13 Appendix K, sub section 13.

Clerk: Question 710.

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Mr Speaker: No, the Hon. Edwin Reyes.

Hon. E J Reyes: Sorry, Mr Speaker, does the Hon. Minister have any breakdown of that £93,929 available?

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Hon. S E Linares: Mr Speaker, as I understand it, the associations and the groups that have applied have not yet been informed of it, but as soon as they are informed I will give him the whole list of how much each association has been given.

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Hon. E J Reyes: I am grateful for that, Mr Speaker.

Yes, there is no great urgency as long as we get the information during the course of the year.

Can I clarify, then, Mr Speaker would the Hon. Minister wish me to raise it at as a Question at a future meeting or will he, as and when the payments are made, provide information. I ask this, Mr Speaker, because it could become repetitive every month saying, you know, have you now made any payment or whatever. So I do not know which of the two options the Hon. Minister would prefer we took.

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Hon. S E Linares: Mr Speaker, I could give it to him on a confidential basis, because I have got it with me and I can give it to him in the ante room on a confidential basis until I actually tell him that he can use it because it is not, I don't think it is fair...

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Hon. E J Reyes: That is perfectly acceptable to me, Mr Speaker.

Hon. D A Feetham: Can he just finish what he was saying: you don't think it is fair

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Hon. S E Linares: It is not fair for me to give, publicly, for the hon. Member on the other side to publicly announce what are Government funds. It is the Government and the actual Cultural Grant Committee, because there is a committee that actually decides on how much money is given to each group and it is not fair, for example, if I give the hon. Member the list that he can then go publishing it if he wishes before the actual people who get the monies are informed. I think it is only fair.

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Hon. D A Feetham: Yes I quite understand. So the information is going to be provided on the basis that once, of course, the Government then, the Hon. the Shadow Minister can make use of it for, obviously his own [*inaudible*].

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Hon. S E Linares: Absolutely.

**Gibraltar Fair Week
Reason for change of date**

1255 **Clerk:** Question 710, the Hon. E J Reyes.

Hon. E J Reyes: Mr Speaker, can the Minister for Culture state why the 2012 Gibraltar Fair Week was held approximately a week later than all previous years' established dates, thereby creating a clash with the start of the Government schools' new academic year?

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Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

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Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, the Fair was organised by the Self Determination Gibraltar Group with the assistance of the Ministry for Culture. The SDGG decided on those dates similar to those when the Fair was held back in the 90's, when the event was organised by their volunteers.

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Hon. E J Reyes: Mr Speaker, is the Hon. Minister aware that although it may have been at that date at its very origins it was later changed because representations had been made by professional bodies such as the Gibraltar Teacher's Association who requested that the Fair dates did not clash with the start of the academic year?

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Hon. S E Linares: Mr Speaker, even consultation was made this year because of the change and the Government side actually consulted the professionals and the professionals did not see or actually voice a strong objection to the fact that the Fair was changed, but I can tell him that we will be looking at the whole aspect of when the Fair is done.

It was the decision of the SDGG this year and we will again consult the SDGG and the professionals again to see if we need to readjust and move this at any stage.

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Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, can I just supplement what the hon. Member has just said in relation to consulting the professionals. This is a matter that was referred to me as Minister for Education as to the possible educational impact and I did discuss this matter with professionals at the Department of Education.

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It was felt, with the representations that were made, that it would not impact on the attendance at school, particularly because it was the first week of school, it was half days and it was a short week in any event. As I understand it, the issues that were raised subsequently have nothing to do with attendance at school but attendance at the Fair as a result of school.

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So it did not have any *educational* impact and what is being considered is that it appears to have had an impact on the attendance at the Fair and not attendance at school. So the educational side was taken care of but the issue is the practical attendance at the Fair and that is what is being considered for next year's purposes.

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Hon. E J Reyes: So, then, Mr Speaker I think the Hon. Minister for Education, like me, should rejoice that parents chose to give priority to attendance at schools rather than to attendance at the Fair. (*Laughter*)

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Hon G H Licudi: Mr Speaker, it would be nice for everybody to be able to enjoy absolutely everything but it is not a question of rejoicing or not rejoicing, there is an issue that has been raised as to the effect on the Fair itself and that is an issue that my hon. Friend has taken on board and is considering for next year.

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Hon. E J Reyes: I am grateful to the Minister for Education who told me about the consultation with his Ministry and, obviously, in turn, he did it with his senior officials. Can one or the other of the Ministers confirm that there was some consultation at least with the Gibraltar Teachers Association?

Hon. G H Licudi: Mr Speaker, I certainly did not speak directly to the Teacher's Association on this particular issue. I consulted officials and got some feedback from them.

1310 **Hon. D A Feetham:** Did the Minister consider also the implications on parking before agreeing to the shift of the timetable for the Fair from August to September, bearing in mind that that was the week where children were back at school and therefore parents on school runs and also people coming back from holidays and that, therefore, inevitably there would be more people at that time looking for parking rather than at the end of August when usually people are on holiday?

1315 **Hon. S E Linares:** Yes, Mr Speaker, parking was provided opposite straightaway. I mean that was part and parcel of the idea of doing the parking so quickly, because of the fact that Commonwealth Parade was going to be used but, yes, I take the point that we have to look at parking with the finite land that we have got and parking *is* an issue all the time, not only in the Fair.

1320 **Hon. D A Feetham:** Well, for example, does he know how many parking spaces there are in Commonwealth Parade and also the car park next door that was used for the Fair and how many parking spaces there were provided opposite Commonwealth Parade? Did he make that analysis?

Hon. S E Linares: No, I did not, I do not think it was that important.

1325 **Hon. D A Feetham:** So the Hon. Minister does not think (*Laughter*) that it is actually important to plan ahead and consider the implications on parking for people before making a decision of this nature. Is that the answer he is giving? I am giving him another opportunity. (*Interjections*)

1330 **Hon. S E Linares:** Mr Speaker, we have had Fairs since, I think, the 1990s, and during the time that the hon. Member was on this side of the House, I cannot remember them even *thinking* about the parking implications. The fact that Commonwealth Parade was emptied of cars and no other provision was made *at all* just goes to show that the hon. Member is just trying to make cheap political points at the fact that we actually provided parking and that I do not know how many, and I do not think that it is important, because at least we provided... Even if we provided even *one* parking extra than what the hon. Member used to is better.

1335 So the fact that I do not know whether there was 500 parkings and that I only provided 300 parkings is irrelevant. That is why I think it is not important – because, quite frankly, it was not even in their minds about the parking. The fact that we did it, we did hard work, we laid the tarmac, we put solar panel lighting on it, which we are very proud of. Those are the things that people will be looking at – not whether there is one parking less or one parking more, Mr Speaker.

1340 **Hon. E J Reyes:** Mr Speaker, the Hon. Minister is factually incorrect in stating that no parking has ever been provided by the GSD when it was in Government. I ask him to search back in past press releases and he will find that alternative parking spaces were made to at least cater for part of the loss of Commonwealth Parade car parking during the Fair Week.

1345 In any case, then, Mr Speaker, further to that, what we were trying to say was, if the Fair Week is held at the time of the year when schools have still not commenced, it makes life a bit easier for parents to perhaps consider – and the Minister for the Environment would support this – walking to work, because it just requires an adult to walk to work and so on and therefore adopt a healthier and greener lifestyle; whereas if it coincides with the start of school week, it becomes a bit more complicated to walk to work, carrying along children who walk at a much slower pace and are much younger and therefore cars do become necessary. So that was the point, as well, we were trying to put in, Mr Speaker.

1350 **Mr Speaker:** I think he is clarifying the point that has been made by the Hon. Daniel Feetham.

1355 **Hon. D A Feetham:** Well, can the Minister confirm – because this is what I understand by his answer; maybe I have got it wrong – that they provided the parking opposite to Commonwealth Parade specifically to take into account the lack of parking for the Fair, during that week? Is that what he is saying? Because, of course, the answer... that particular parking is provided as part of the Government's commitments in respect of other policies the Government has. But maybe – I do not know – I was wrong in my assessment of that, as well.

1360 **Hon. S E Linares:** Yes, you are. And why? Because what we have done... It is the timing of it. We could

have left that and said, right, when Commonwealth Park starts its development and we have to shift it, we could have done it then. The fact is that we did it just before the Fair, in order to alleviate the shortfall that was there. That is exactly why we did it before and not after.

1365

Hon. S M Figueras: Mr Speaker, by way of clarification – and I will need two microphones to make this point – we have had this discussion in Parliament in recent sessions, where I have had the debate with the Hon. the Minister for the Environment in respect of the Commonwealth Park, in rather heated fashion and a very entertaining one, that the plans for the Commonwealth Park – or rather the logistics as they have mapped out – were that, just before the Fair, the Commonwealth Park area would be vacated and the parking would be provided elsewhere on the other side of Queensway and that, after the Fair, the Commonwealth Parade would no longer be used, because work would continue. I remember that we had that discussion.

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So now for the Minister to pretend – the Minister for Culture – that they somehow provided that parking because they were going to deprive the users of the parking during the Fair is somewhat disingenuous, given the fact that we had that debate – and that *will* be on *Hansard*.

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So I just offer that by way of clarification, because I think it is an important point to clarify, Mr Speaker.

Mr Speaker: There is no question there.
Next question, in that case.

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Clerk: Question 711, the Hon. E J Reyes – (*Interjections*)

Mr Speaker: Well, I will allow the Hon. Daniel Feetham.

But I must make the point that when we end up with a statement as opposed to a question, I must reasonably assume there are no further questions.

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Anyway, the Hon. Daniel Feetham.

Hon. D A Feetham: What does the Hon. the Minister think that the SDGG bring to the party, so to speak, in terms of the organisation of the Fair, other than the fact that they organised the Fair in the early 1990s?

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Hon. S E Linares: Mr Speaker, they are a group of volunteers who help, in conjunction with the Ministry for Culture, set up everything to do with National Week and National Day. That is exactly what they do.

Hon. D A Feetham: They are also an organisation that, obviously, deals with, that represents, rights of self-determination – although they perhaps do not want to go this far, but it is the logical conclusion of their philosophy – independence or certainly the right to self-determination.

1395

There are many other organisations that are volunteers that do a perfectly good job during the 16 or 15 years of GSD Government it was dealt with. There were other volunteers that dealt with this. Why the SDGG? What is it that they bring to this other than the fact that, historically, under Mr Bossano's Government, they were the ones that organised it, that you feel they bring to bear in terms of expertise or experience to the organisation of the Fair? Or is it just – (*Interjection*) I just want to understand it – that, historically, they dealt with it, when the GSLP were in Government and therefore you are returning to that, simply for historical reasons?

1400

Hon. S E Linares: Mr Speaker, the SDGG was the group that actually started National Day. (*Interjection*) Yes, hold on – National Day. They then proceeded by doing the Fair and all that was around a National Week.

1405

So it is only fair – and, yes, he is right in saying 'because of historical reasons'. It is their 'baby', for want of a better word, which the previous administration then ostracised and ignored and did not want to know and had to do rallies in Casements in a private property, because the previous administration did not like what they used to organise. They were volunteers, they were... It was only until the GSD came into Government that they took over completely, the whole of National Day, the whole of National Week, manipulated in their own way for their own political ends and we believe that it is only right that the people who started National Day, the people who started National Week and all its festivities should have at least involvement and working together with the Ministry of Culture.

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Hon. D A Feetham: I am afraid I do not understand the logic of that. Actually, we did away with the

political... (*Interjection*) *We did* –I do not think *you* understand the logic of that. But we did away with the political rally. I do not understand how you can possibly say, in the same breath, that we actually politicised the event. On the contrary, we tried to do the opposite of politicising the event.

1420

But is your point of contact on this within the SDGG, Mr Cardona. Is that the position or not?

Mr Speaker: Before the Hon. Minister answers, I will allow that supplementary as it is, but I should point out, we are now deviating far away from the original Question, which was the dates of the Fair Week in conjunction with the schools' academic year. Now we are moving it around to debating the justification or otherwise of entrusting this whole thing to the SDGG. I will allow that question, but no further questions on that line.

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Hon. S E Linares: Mr Speaker, I have connections with *all* the members of the SDGG, including Mr Dennis Matthews, who is now the Chairman.

1430

**Youth Clubs
Weekend opening**

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Clerk: Question 711, the Hon. E J Reyes.

Hon. E J Reyes: Can the Minister for Youth confirm if resources have now been made available in order for Youth Clubs to be open at weekends, as per his Party's manifesto commitment and, if any, provide details of these?

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Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Yes, Mr Speaker, resources have been made available, in order for the Youth Clubs to open at weekends.

1445

I would like to add that the Youth Service is currently conducting a recruitment campaign to recruit volunteers to help in fulfilling our stated manifesto commitment.

I now hand over to the hon. Member opposite a schedule of the detailed information.

The schedule appears on the next page.

ANSWER TO QUESTION No: 711/2012

December:

Dolphins Youth club met at its premises before travelling to the nearby Rio Miel for a club whole day outing.

The Youth Centre opened and used the sessions; usually the whole afternoon, in the preparation for the construction of the 3 King's Cavalcade float.

January

The first Saturday In January including members and friends from other clubs who were encouraged to come to the Youth Centre and assist with the decoration and preparation of the float.

Dolphins youth club again met on a Saturday and went with members and some friends on a walk to Mediterranean steps.

Members from Plater Youth Club and the Youth Centre met at their respective clubs and from there went on "driving tours" to the Upper Rock; local beaches; Rosia Bay and enjoyed local natural history sites and open space away from their normal meeting venues.

February

Plater Youth Club members met on a Saturday and helped organise and deliver a cake-stall and raffle next to the Moorish Castle children's playground to raise funds for club projects.

Laguna youth club also met on a Saturday to travel to a nearby river in Spain.

March

Dolphins Youth Club members met on a Saturday morning and went to the Piazza to hold a cake stall and raffle at the Piazza to raise funds for club projects.

Later that month they too went to Spain, this time to Tarifa where they took part in a walk along the coastline and natural park in that area.

April

The Youth Centre members met on a Saturday to go on a "local" hiking venture taking in Anglian Way, the Great Siege Tunnels and the Upper Rock in general enjoying the views and identifying local landmarks.

May

Dolphins Youth Club again met on a Saturday morning and this time walked inside the rock on a tunnel tour including the Great North Road.

Laguna Youth Club members met on a Saturday to take its members on a "dolphin spotting" trip out in the bay.

June

Plater Youth Club members enjoyed two Saturday outings; one to the Marbella ski park and the other to Bahia Park also in Spain during the month of June.

August

The Youth Centre held one last trip on a Saturday in August for members from various youth clubs and some friends.

1450

Hon. E J Reyes: Mr Speaker, I am grateful to the Minister.

He has provided me with this detailed breakdown, highlighting some of the activities that have taken place at weekends, during the course of last December up to last month of August, but can I be more specific in asking him is it his intention that youth clubs will be open at weekends on a permanent basis and not just once or twice a month?

1455

Hon. S E Linares: Yes, Mr Speaker, that is precisely why we are doing the recruitment campaign, because in order to open during the weekends, you need more people to man it. It would include youth workers but it will also include many volunteers, and that is why we are doing the recruitment campaign that we are currently engaged in, so that we can get as many volunteers as we can, in order to open them even

1460

further.

1465 **Hon E J Reyes:** And by when, Mr Speaker, would the Minister dare to say he hopes to have this implemented?

Hon. S E Linares: Well, Mr Speaker, in the *Chronicle*, it had a closing date. I cannot remember, I think it was 24th September, on which the actual closing date is, but we are open all the time for volunteers.

1470 I would like to take this opportunity to try and encourage people to come and work with our young people in youth clubs and everywhere we can. We are currently also working very closely with the Heritage Trust, with the Heritage Division. We are currently also working through Education, everywhere we can, so that we can recruit volunteers and have our youth in youth clubs in the right place and atmosphere that they should be.

1475 **Hon. E J Reyes:** Mr Speaker, the Minister referred me to a closing date of 24th September, he believed in the *Chronicle*. Does that mean that, as from 25th September, youth clubs will be open at weekends?

1480 **Hon. S E Linares:** Mr Speaker, I added to that that it is not a finite date. Because the Youth Service has to run courses and have to run screening and things like that – which is ongoing – it does not close on 24th September, but they have given themselves a target of 24th September, because they want to conduct a course.

1485 They will have to see from 24th September how many they have got. If they have not got any people, then they will say, ‘Well, we need to extend it, we have not got any volunteers. Why are we going to run the course?’ If they have got 30 people or they have got three, it is up to them to decide whether they will continue with the courses. It is ongoing all the time, and these courses are how to deal with young people because not everybody can. It is not academic at all. It is just a question of how you relate with young people.

Clerk: Question –

1490 **Hon. E J Reyes:** Once again, expressing gratitude for all those explanations, does the Minister dare to give me a projected date by which he hopes the youth clubs will be open at weekends?

Hon. S E Linares: No, Mr Speaker, I have already answered the question.

1495 We will have to view it as and when we get applications, we get people, volunteers and all that. I would love, and I hope he concurs with me, that we should have it by tomorrow or this next weekend, and he should be happy that at least this Government is trying to work to have all the youth clubs open all weekends. This is a goal that I am sure he probably had when he was on this side of the House, so the fact that we are actively pursuing it... he should be congratulating me for trying to at least move this forward.

Clerk: Question 712 –

1500 **Mr Speaker:** The Hon. Jaime Netto.

1505 **Hon. J J Netto:** I would just like to ask the Minister whether, in relation to the Laguna Youth Club, over there, the refurbishment which I started in my previous term as a Government Minister in order to allow the usage on certain days of the week by the elderly people in the catchment area of Glacis and Laguna, is that still going on? Or perhaps that project has now been abandoned for some other reason?

1510 **Hon. S E Linares:** Mr Speaker, yes, the project that *he* started was nearly two years stopped whilst he was there because there was nothing happening. The fact is that the users... even the youth club itself was shut for a very long time. The hall was divided into two, in which one side – and that is the place that we have all used when we have elections, one side... That side was apparently to be for a place where the elderly were supposed to have gone there. Nothing had moved for a very long time. It was stopped.

1515 So, what happened was that I tried to... because the users... because we opened and it was opened... I think it was opened in October or November last year when the youth club was opened. Half... not the other side. The other side was never used as a day centre, ever, and what happened was that the users of the Laguna Youth Club were telling me, ‘Look, we are crammed in here. What is happening? There is nothing happening

1520 on the other side.' So, in consultation first to try and get the tenants' association, who have a big premises, to see if they can reconcile having the day centre... But I am happy to say that, in consultation with the Minister for Social Services, we have been able to do something different, which is not have the centre there. The centre that you used to have in the Laguna is now opened and is now a youth club. The whole thing is a youth club because they needed it. Therefore, it was like robbing Peter to pay Paul in that sense. So what we have done is open it all and the day centre has been relocated elsewhere.

1525 **Europa Point**
Cricket and rugby facilities

Clerk: Question 712, the Hon. E J Reyes.

1530 **Hon. E J Reyes:** Can the Minister for Sport and Leisure provide details of his Ministry's plans to provide renewed facilities for the playing, teaching and development of both cricket and rugby at Europa Point, as per his Party's manifesto commitment?

1535 **Clerk:** Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, no details can be provided at this stage for the renewed facilities for the playing, teaching and development of both cricket and rugby at Europa Point, but discussions are ongoing with the relevant sporting bodies about potential locations for such facilities.

1540 **Hon. E J Reyes:** Mr Speaker, can I please ask for some clarification?

Is what the Minister is saying that he is discussing with both the Cricket and Rugby Associations as to perhaps providing the facilities *elsewhere*, other than Europa Point?

1545 **Hon. S E Linares:** Wherever it is possible, either Europa Point or wherever we can find places and they are happy with. It could well be Europa Point.

1550 **Hon. E J Reyes:** So what happened to the firm manifesto commitment of providing these facilities at Europa Point?

Hon. S E Linares: The fact is that if the Associations are happy with the fact that we are moving somewhere else, you can then put a little cross on our manifesto commitment that it is not in Europa Point but the facilities – the brilliant and wonderful facilities which the Associations will be really happy about – are not in Europa Point. We can contest that in an Election on that one.

1555 **Hon. E J Reyes:** And what would happen, Mr Speaker, in the circumstances that the Association is *not* happy vacating Europa Point?

1560 **Hon. S E Linares:** We will work as hard as we can to make them happy.

1565 **Sports grants**
Expenditure

Clerk: Question 713, the Hon. E J Reyes.

1570 **Hon. E J Reyes:** Can the Minister for Sport and Leisure provide full details of what expenditure it has already made, or is firmly committed to make, in respect of 'Sports Grants' for which financial provision is made in the Estimates of Revenue and Expenditure 2012/2013, Appendix J, in the following sub sections:

- (22) Grants to Sporting Societies;
 (23) International Competitions;
 (24) Sports Development Projects; and
 (25) Hosting of Special Sports and Leisure Events?

1575

Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

1580

Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, I now hand over to the hon. Member opposite the details requested in relation to the expenditure already made in respect of sports grants for 2012-13. Further details on committed expenditure will be provided once the sporting associations have been informed. [*Inaudible*]

ANSWER TO QUESTION 713/2012

(22) Grants to Sporting Societies - £67,914.00

Breakdown of expenses for the period 1/4/12 – 14/9/12

Hockey- Competition in Athens -	£3500.00
Billiards and Snooker- Competition in Spain-	£400.00
Basketball- Competitions in Macedonia-	£6510.00
Basketball- Competition in San Marino-	£4960.00
Sea Angling- European Shore Championships-	£6054.00
Sea Angling- European Boat and line Championships-	£6638.00
Basketball- Two European Competitions in Gibraltar-	£17000.00
Hockey- Competition in France-	£6053.00
Hockey- Competition in Portugal-	£5000.00
Ten Pin Bowling- Med Cup in San Marino-	£1056.50
Rowing- International Competition in Belgium-	£6000.00
Triathlon- iron man Hawaii-	£1000.00
Swimming- Competition in Andorra-	£3742.50

Pending commitments for this account, for which the GSLA is awaiting confirmation of completion and/or submission of relevant application forms, are those included in the following table of recommendations made by the Gibraltar Sports Advisory Council:

Governing Body.	Details of event/project.
Gib Athletics.	21st European Championships Helsinki, Finland
	14th IAAF Indoor Championships, Istanbul, Turkey 2A+10
	14th European Cross Country Champs Dec 2012 2A+10
	European Junior Championships, Barcelona, Spain 2A+10
Gib Basketball.	European Championship Div C U18 Men 12A + 3C +1Ref San Marino
	European Championship Div C U18 Women 12A + 2C+1D +1R Cyprus
	European Championship Div C U16 Men 12A + 2C+1D +1R Gib
	European Championship Div C U16 Women 12A + 2C+1D +1R Gib

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Gib Chess	Late Applications Awaiting revised quotes
Gib Cricket.	Iberia Cup
	World Cricket League ICC
	U17 European DWZ Tournament ECB
	Girls U15 ECB County Festival Tournament
	Senior Women Cricket Board T20 Tournament ECB
Darts	Torre Open
	Med Cup
	EU Cup
	Winmau
	EU Youth Cup Pro Tour
Hockey	European Cup Mens Eagles HC
	European Cup Mens Grammarians
	European Cup Ladies Hawks HC
	European Cup Ladies Eagles HC
	World Series Cup July Mens squad 2012 Portugal
	U21 European Mens Junior Cup Portugal
	U21 European Ladies Junior Cup Portugal
U16 European Boys & Girls Nations Cup	
Ice Skating Gib Netball	Competition
	Comp to qualify for IFNA Champs May Netball Europe Festival Gibraltar+ Coach Ed
Gib Pool.	Netball Europe U17 Wales
	European Championship UK
	World Championship, Turkey
Gib Rowing.	FISA App Ghent Int Junior Championships
	EU Rowing Championships
	World Rowing Championships
Rugby	FIRA Int Comp x2 (subject to membership Approved)
Gib Sea Angling	European Boat Angling Championships Norway
	European Shore Angling Championships Iceland
	World Shore Club Championships Holland
Gib Squash	ETC Malta 9A+1C+1R
	ECC Czech 5A+1C+1R

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	ESF Junior Squash Qualifying event
Pistol	CSF ED
Clay	CSF ED
Rifle	CSF ED
Gib Swimming.	FINA World Championships Istanbul 4A+2O
	LEN International Swimming Champs Andorra 16A+2O
Gib Tenpin Bowling	Med Challenge Cup Serravalle, San Marino
	EU Mens Champs Vienna, Austria
	World Singles Champs in Den Hague, Netherlands
	EU Champions Cup Netherlands
	Commonwealth Champs
	Amf World Cup
Gib Triathlon	Iron Man Frankfurt Germany
	Ironman world Champs
Volleyball	Malta Med Games
	Junior tournament

(23) International Competitions- £30.22

Breakdown of expenses for the period 1/4/12 – 14/09/12

Subsistence Ministers meeting in London- £30.22

Pending commitments for this account, for which the GSLA is awaiting confirmation of completion and/or submission of relevant application forms, are those included in the following table of recommendations made by the Gibraltar Sports Advisory Council:

Details of event.
Common Wealth Games Glasgow
General Assembly
European meeting
Straits Games
Island Games Bermuda 2013

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(24) Sports Development Projects- £14938.03

Breakdown of expenses for the period 1/4/12 – 14/9/12

CSLA Tutor accommodation	£310.00
First Aid Course	£450.00
Exercise Instructor Fees	£90.00
Swimming Coach Expenses	£112.50
Elec and Water Boxing Club and Body Building	£80.38
Elec and Water Boxing Club and Body Building	£213.14
Elec and Water Boxing Club and Body Building	£123.76
Elec and Water Boxing Club and Body Building	£75.13
Premises minor works	£25.40
First Aid Courses	£320.00
Equipment for SDU	£678.43
Equipment for SDU	£1221.76
Equipment for SDU	£213.99
Sports Trust UK- Trainer	£489.54
Basketball Schools Sports Development	£4987.50
Football- Competition in Portugal	£1800.00
Coaching – Karate	£620.00
Cheerleading- Coaching	£732.00
Ju Jitsu- Competition in Japan	£1000.00
Ice Skating Schools Development	£325.00
Sub Aqua Courses	£709.50
Squash- European Federation AGM	£360.00

Pending commitments for this account, for which the GSLA is awaiting confirmation of completion and/or submission of relevant application forms, are those included in the following table of recommendations made by the Gibraltar Sports Advisory Council:

<u>Governing Body.</u>	<u>Details of event/project</u>
Artistic Gymnastics	Crash mats, Floor mats and a Spotting block
Athletics	Electronic photo finish
Climbing	Anchors and Bolts at recognised sites in Gib
Rhythmic Gym	New Carpet Needed
Gib Clay Shooting	2 Additional Traps
Gib Pistol Shooting	ISSF Rapid Fire targets

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	ISSF Air Pistol Target x8
	Change of shooting points to meet ISSF Standard
	Turning Target (1 piece bank of 5)
Taekwondo	Timing equipment
Gib Artistic Gym	UK Artistic Gymnastics Level 1 coaching course for Shane Israel
Gib Athletics	IAAF Congress – Convention Malta
	Youth Development Programme (10-15)
Gib Badminton	Badminton Europe and COMEBA AGM Badminton Summer Camp,
	ETB Ongoing Coach Education Programme
Gib Basketball.	Fiba Europe General Assembly, Slovenia
	Sec Gens Conference Germany
	EBE level 3 award
	Commisioner's Clinic in Germany
	FIBA Refs Clinic in Germany
	NRI Clinic in Spain
	Cadiz League Transport 2011/2012
Gib Cheerleading	UK Cheerleading Qualifiers x2
Gib Chess	Monthly junior coaching from Mr D Escobar
	Monthly training For S Whately via Mr D Escobar
	Monthly Senior coaching from mr D Escobar
	2 Day Arbiting Course and exam UK
	Arbiting Tournament in UK req to get Arbiting qualification
Gib Climbing	Junior Climbing competitions Via BMTC
Gib Cricket.	ECB Administration and governance forum
	ICC Annual Conference
	European Centre of Excellence Participation 2A+1C

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	Girls U15 ECB Country Festival Tournament
Gib Football	Junior Tournament -Portugal
	Senior Football International Challenge Trophy Jersey, Guernsey I OM + Gib (FIFA sanctioned)
	Senior Football International tournament Slovakia
	Dev Officer work in schools
	level 1 UK FA x24
	Level 2 UK FA x12
	referee instructor course
	Dev officer qualification (UEFA A)
	Junior Football Tournament in Sweden
	Tournaments, Seniors, Juniors, Ladies
Gib Hockey	Level 2 Coaching Course
	International Hockey federation Malaysia
Ice skating	Summer NISA Excellence and performance Clinics Madrid
	Easter Family Fun day Gibraltar
	Hull Open
	Dundee Open
	Bracknell Open
	NISA Exam 1 & 2
	Competitions
	Consultative Form
Gib Ju-jitsu	Butoku Sai Congress Japan
Gib Karate	Instructor development course Southampton
	Training Course with Harada
	Instructor development course UK
	instructor development course Wales
Gib Netball.	Coaching UKCC Level 1
	Coaching UKCC Level 2
	Umpire level C tutor / resources
	Umpire level C Assessor
	NE Coaching Conference
	Umpire level C tutor / resources
	Umpire level C Assessor

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Gib Paddle	Level 1 paddle Tennis - Course x 3 Junior Development Course 4 juniors
Gib Pool	Courses for Juniors and Seminars 2 visits professional mentoring of local coaches
Gib Petanque	FIPJP Congress
Gib Rhythmic Gymnastics	GB national grade testing x6 GB Grade Finals GB National Finals GB Coaches training Course GB Judges Course british Group National Championships National Coach Training Spanish level A and B 30 -50 girls Spanish level copa 10 girls
Gib Rowing	ARA training Course level 2 and 3 FISA Junior Coaches Conference TBA FISA Senior Coaches Conference TBA British Rowing Coaches Conference UK ARA Umpires training Course British Rowing Championship Nottingham England FISA Ordinary Congress Elite training camps in Seville
Gib Rugby	FIRA general meeting Insurance Barbarians Travel Costs Andalucian League
Sailing	Equipment for schools RYA Sailing Instructor Course - 6
Gib Shooting	
Gib Clay Shooting	2 Visits by Qualified UK Coach CPSA Coaching Course in UK 4 British Selection Events
Gib Shooting Pistol	1 Visit By Qualified ISSF Coach ISSF Range Course x2 ISSF coaching Course -2 Junior Training Material France Grand prix ISCh Hannover British Air pistol Champs

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	Intershoot Holland
	Jersey Open
	Welsh Air Champs
Gib Squash	ESF AGM
	ESF Junior Squash -Qualifying event
Sub Aqua	BSAC Advanced decompression Procedure x12
Gib Swimming.	Elite Swim Camp Specialist Centre Tenerife
	Lifeguard Course
	LEN Congress
	Accredited Teacher Training
Gib Taekwondo	International Poomsae Seminar / Championship
	International Sparring Champ UK
	International Patterns Champ UK
Gib Tennis	Level One Coaching Course – 6
Gib Triathlon	Triathlon Coaching Course
Gib Volleyball	Referees Course + paper work
	Scorers Course
	FIVB Congress
	CEV Congress
Sports Specific Schools Development Projects	Football
	Basketball
	Ice Skating
	Rugby
	Badminton
	Cricket
Sports Development	Holiday programmes & generic coach education

CONTD. ANSWER TO QUESTION 713/2012

(25) Hosting of Special Sports and Leisure Events. £111231.20

Breakdown of expenses for the period 1/4/12 – 14/9/12

Classic Vehicle Rally	£1500.00
Kennel Club- Dog shows	£10000.00
Gib Fit Congress	£295.00
Minister's Reception UEFA	£616.75
Harley Davidson Rally	£2000.00
Minister's Football Reception	£415.60
Squash – Gib Open Prizes	£4500.00
Junior Chess Festival	£15000.00
2 X Minister Reception UEFA	£1558.75
Basketball hosting of 2 European Competitions	£51215.00
Minister's Reception Netball Europe	£1500.00
Football Expenses	£378.10
Minister's Contribution Man Utd Gib Anniversary	£1500.00
Strongman Champions League	£20000.00
Chess Festival Official Hosting	£238.00
Gibraltar Regatta- Official Accommodation	£516.00

There are still four pending commitments for this account:-

The Gibraltar Regatta recently held,
The Masters Ten Pin Bowling Championships,
The Chess Festival
Professional Darts Corporation.

1585 **Hon. E J Reyes:** Yes, Mr Speaker, I am grateful for the information, which I can look at with greater time on my hands.

Can I clarify from the Minister as and when he makes the additional grants or whatever under these sections, will he automatically then pass on to me the information?

1590 **Hon. S E Linares:** Mr Speaker, as I understand it, it will also be... Yes, I will do that, and not only that, all this is now going to be on the new Gibraltar Sports and Leisure website. They are going to have an independent... Well, it will be run by Government but they are going to have their own website on which *all* this information will be, as soon as it can be provided.

Hon. E J Reyes: It prompts me to ask something, Mr Speaker.

1595 I am very grateful that that sort of information is being provided through the Government website and so on. I would like to bring to the Minister's attention that when, on the Opposition side, you come to tabulate your Questions and hand them in before the deadlines, because this side of the House does not enjoy all these facilities to automatically have access to the online information...

1600 I must express some gratitude to the Clerk of this House who actually made available to me the use of one of the officers' PCs so that we can have access, and it is something the Government may wish to consider, because information has been provided – we are grateful to the Ministers – but the facility for this side of the House to access the information has not been provided. So we are here, and other than Mr Netto, who happens to have his own personal laptop... I cannot look into it and verify or tabulate, or in fact, do the legitimate work of the Opposition, which is to see what is being provided or what further questioning from there may be needed. So that is something that this House should consider for the future if we are going to have increased

1605 information being provided via these types of services.

Hon. S E Linares: Mr Speaker, just to say that if we do put it in the website, he can still ask the question and I can tell him that he can look at it on the website or, if he wants, he can ask somebody else to look on the website for him, but I have no problem in giving him the information – even if he asks in this House – straight to him.

Mr Speaker: I think this was a wider plea, rather than just the information. A wider plea to the Leader of the House to provide iPads and laptops to all the Members, which I must say I do endorse.

1615 **Hon. E J Reyes:** Thank you, Mr Speaker, for helping to clarify that.

1620 **Gibraltar Olympic Movement**
Application to join International Olympic Committee

Clerk: Question 714, the Hon. E J Reyes.

1625 **Hon. E J Reyes:** Mr Speaker, further to his recent announced support in respect of Gibraltar's longstanding application to join the IOC, can the Minister for Sport and Leisure provide details of what specific course of action his Ministry will be taking to sustain the bid submitted several years ago by the Gibraltar Olympic Movement?

1630 **Clerk:** Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, as the Leader of the Opposition, who is not here in the Chamber today, will know, the Gibraltar Olympic Movement commenced legal action against the International Olympic Committee before the Swiss civil courts many years ago and that action went all the way to the Swiss federal courts and was unsuccessful.

1635 The Gibraltar Olympic Committee is exploring what further avenues are available to succeed and the Gibraltar Government will support any initiative they or any other relevant parties may take in this respect in order to advance further.

1640 **Hon. E J Reyes:** Thank you for that, Mr Speaker.

So, what I gather is that the present Government will continue with the same level of support as this party did when it was in government, and I therefore publicly announce that I wish to join wholeheartedly with the Minister's efforts and he can count 100% on support from this side of the House in respect of the Gibraltar Olympic Movement's application to the IOC – in fact, I will even go further: in respect of all applications submitted by any legitimately registered sport associations – and I hope that we can work together in partnership, even, if need be, speaking outside meetings of this House so that we are mutually updated and there is a common approach for the good and benefit of all sports persons in Gibraltar.

1650 **Hon. S E Linares:** Mr Speaker, just to say that it is a thing that we welcome. It is not a party political issue. It is an issue that we should all be united on, and in this case I welcome any help or anything that the hon. Members on that side or anybody in Gibraltar might give.

1655 **Gibraltar Sports and Leisure Authority facilities**
Bookings/allocations made to sporting bodies

Clerk: Question 715, the Hon. E J Reyes.

Hon. E J Reyes: Mr Speaker, can the Minister for Sport and Leisure provide details of all fixed

1660 bookings/allocations made to sporting bodies in respect of all facilities managed or administered by the Gibraltar Sports and Leisure Authority for the 2012-13 season?

Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

1665 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, the tables of all fixed bookings/allocations provided for use by sporting bodies in respect of all facilities managed and administered by the GSLA for the 2012-13 season are in the process of being finalised. The hon. Member will be sent a copy of what will become a public document on completion of the exercise.

1670 **Hon. E J Reyes:** I am grateful and I accept that, Mr Speaker.

Just so that it goes in the record, I had a similar thing which I accepted once from the Minister for Housing, and when he actually handed me the document we needed guidance from the Clerk so that that schedule or whatever was handed over could actually then be recorded and become part of the *Hansard*.

1675 So although I am patient enough and will wait and understand that the final allocations still have to be made, when that is available, somehow or other, Mr Speaker, I wish that to be recorded in Parliament. So perhaps at the next meeting, if it is ready by then, the Minister can actually table it – I think that is the advice that the Clerk gave us. The Minister can then table it and then he can legitimately make it form part of the *Hansard* for the sake of perhaps when it comes to a future reference.

1680 As a Member of the Opposition, one only has to look into *Hansard* and find all the information there. Otherwise, it ends up being lost. A piece of paper can easily be lost in my home, given that the Opposition does not even have offices available here within the Parliament building.

1685 **Hon. S E Linares:** Yes, Mr Speaker, suffice to say that, as he well knows, they are finalising it because of the time of the year where we are. It is August/September, so the season is changing, some seasons are starting and all that.

1690 But I can also say to him that in this case, yes, we will go through the process that he has mentioned, through the Clerk, so that it is in *Hansard*. I have no problem with that. But again, next year, all this will be on the website as soon as it is available, so there might not be a need next year to come through Parliament in order for this because it will be a public document that will be on the website. But this year I have no problem; we will do that.

1695 **Strongman Champions League 2012
Sponsorship arrangement**

Clerk: Question 716, the Hon. E J Reyes.

1700 **Hon. E J Reyes:** Can the Minister for Sports and Leisure provide details of the sponsorship arrangements, inclusive of its financial value, granted by Government towards the staging of the Strongman Champions League in Gibraltar during September 2012?

Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

1705 **Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares):** Mr Speaker, Government, through the Gibraltar Sports and Leisure Authority, agreed to provide £20,000 sponsorship towards the staging of the Strong Man Championship League. Non financial assistance was also provided relating to resources, facilities and venues necessary for the event.

1710 It is important to understand that this event will be televised as a one hour programme in Eurosport and coverage of the event will also be transmitted on Channel 5 and ITV. Therefore, the event is seen as an *excellent* opportunity to market Gibraltar.

Hon. E J Reyes: Mr Speaker thank you for that information.

Within welcoming this type of events – and this party has always supported Gibraltar being a host nation

1715 for international events and so on – does the Minister know if the timing of events, did it infringe and therefore cause cancellations for other sporting events that were scheduled or, I am going to give him time perhaps to look it up and I can get the answer from him at any future date?

1720 **Hon. S E Linares:** Mr Speaker, as I understand it, it did not because the organisers came, if I remember correctly, it was about April/May time and by then they had already notified the dates that they wanted to use. As I understand it, the GSLA did not have any problem on the facilities exactly for the reason that I have just mentioned because August/September there are, it is like the summer and therefore associations and bodies are not using the facilities as they do during the winter time.

1725 But I can also say that it is not a firm date. Those are not firm dates for every year because we want it to be maybe an annual event and the sponsorship deal might change – we don't know. But, what I am saying to you now is that we want it to be an annual event because of the importance that Gibraltar is put on the map at least on this sport and Gibraltar itself, the one hour programme that apparently Eurosport is going to do, will include lots of shots of Gibraltar, lots of places in Gibraltar, so it will be like a story of the men coming to Gibraltar, seeing the place and that, in itself, is marketing. It is marketing tourism so we thought that it was very important to do this first one and then the next one, next year, things might change. Even the dates might change.

1730 **Hon. E J Reyes:** Can I then just simply to round it up, Mr Speaker, just ask the Minister that, although he will continue receiving our support on that, just to bear in mind for future dates requirement, the sensitivities of other sporting associations. I mean he has probably heard it the same as I have, you know those within for example the football fraternity who wish to have allocations now in order to get ready for the formal start of the season, end up feeling that their slots may have, in the same way that slots were found for the Strongman thing, that no slots were offered for them in order to prepare themselves better for a championship, more so with Gibraltar's pending and imminent membership of UEFA.

1740 **Hon. S E Linares:** Yes, Mr Speaker, we will look into that and I can assure you that the MUGA area, as it is called, was not a place where the footballers actually lost any allocations at all. The footballers themselves, if the MUGA is not a place where the footballers... (*Interjection*)

1745 Well, yes, fine. Yes, we will be sensitive towards all... because, like I said, we want – it is *events* that we want to do and we have to be both sensitive and see the value of the event and, at the same time, see it not affecting associations. Maybe we can think of more venues but, at this stage, we are not there yet.

1750 **Hon. E J Reyes:** And, once again, for clarity, Mr Speaker, I hope the Hon. Minister accepts my wholehearted support for Gibraltar to host international events and perhaps I can receive his assurance that we will work in an un-political manner in a joint effort to ensure that Gibraltar gets as much promotion in sporting events as possible.

Hon. S E Linares: That is appreciated Mr Speaker.

1755

**Locally registered sports associations
Government assistance for sports development officers**

1760 **Clerk:** Question 716, the Hon –
I beg your pardon, Question 717, the Hon. E J Reyes.

1765 **Hon. E J Reyes:** Can the Minister for Sport and Leisure provide details of any financial contributions it has made, or is committed to make, during this current financial year to any locally registered sporting association in connection with any expenses incurred in respect of, or by, their sports development officers?

Clerk: Answer, the Hon. the Minister for Sports, Culture, Heritage and Youth.

Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, financial

1770 assistance through funds available for the sports development projects is made available to the sports associations in respect of previously approved projects which their sports development officers do in schools, but do not work there, they do directly for the... but work that they do directly for the association.

In the current financial year, to date, the following payments have been made: Basketball £4,987.50; Ice Skating £325.00.

1775

Procedural

1780 **Mr Speaker:** Would that be a convenient moment for a short recess before I move to the Questions for the Minister?

It was agreed.

1785 **Mr Speaker:** This House will recess for ten minutes.

The House adjourned at 11.40 a.m. and resumed its sitting at 11.57 a.m.

1790

ENTERPRISE, TRAINING AND EMPLOYMENT

Graduate Employment Scheme

1795

Three year contracts for research assistants

Clerk: Question 718/2012, the Hon. Mrs I M Ellul-Hammond.

1800 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Employment explain how the Graduate Employment Scheme offering graduates three year contracts as research assistants works?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

1805 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker, the graduates that are currently undertaking research are primarily engaged in sourcing information as and when required in relation to a number of areas. These are primarily in following up sources of information relevant to employment issues, legislation changes, innovation and inward investment possibilities relevant to the 'enterprise' element of my Department or as relevant in the Department in which they have been placed.

1810 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, when did this Graduate Employment Scheme start? Was this as from 9th December?

Hon. J J Bossano: No, it was launched at the same time as the employment training scheme for non graduates, which was in February.

1815

Hon. Mrs I M Ellul-Hammond: Mr Speaker, how does a graduate go about signing up for the Graduate Employment Scheme?

1820 **Hon. J J Bossano:** Well, we have got fifty-six graduates who were unemployed at the time. The hon. Member has asked for a number of additional pieces of information in writing and there she has got the breakdown of when they started but I think something like ten of them started in February and the others have been coming through and there are now, for example, people are making enquiries and, essentially, very much like the ETCL, we take them in as we have something for them to do and we can place them somewhere. Some are in the private sector, some are in the public, I have got that all in the written breakdown and if she

1825 wants more information, I am happy to provide it.

Hon. Mrs I M Ellul-Hammond: Yes. Thank you for that.
So, Mr Speaker, registration is via the ETB. The graduate will go to the ETB to register.

1830 **Hon. J J Bossano:** It is only open to people who are graduates, who are in Gibraltar and therefore resident and registered as unemployed.

1835 **Hon. D J Bossino:** For the purpose of clarification, can I ask the Minister is there... are these graduates going to have some sort of input in relation to legislation, did he say? Can I ask him to clarify that?

1840 **Hon J J Bossano:** Yes, there are a number of lawyers who are unemployed nowadays. (*Interjection*) Yes, (*Laughter*) and given that there are so many in the pipeline studying, (*Laughter*) I would not be surprised if the biggest element in the graduate scheme is going to be lawyers in the future. But those that have got a legal background... For example, I have had some people doing research in my Department for me in relation to some of the legislation we have brought to the House, which means that we have got people that look at UK or other places and help me formulate policy before I ask the Gibraltar Government's Legislation Unit to prepare the draft. So they carry out research in areas of employment law for me or in areas of investment for me.

1845 **Hon. D J Bossino:** Do I take it that it is the Minister himself who identifies the expertise that is relevant to the particular area that the graduate who will be assisting him on?

1850 **Hon J J Bossano:** Well, no, the expertise that the graduate has depends on the degree that he has.
For example, I can tell the hon. Member I have got a graduate who has got a First Class honours in Physics and a Masters in Physics and I cannot provide him with anything that can use his specialist knowledge, but the whole concept is that people who are able to do studying at that kind of level in a UK university have got the ability to apply their *analytical* skills to any task that you give them – but it doesn't mean we are in a position to provide, for somebody that does nuclear physics, the equivalent of CERN. For somebody like that, we don't have that, but it is better that some of these people... I mean we are getting, I suppose, a situation now where, in the United Kingdom, there are 136,000 graduates out of work, who come out of University.

1855 So, before, we used to lose people the moment there was nothing here for them in their specialist field. They tended to go back, they used to come usually for the summer and then, if they couldn't find anything... and in terms of employment the openings for graduates are very limited outside, for example, the gaming companies.

1860 We are looking, also, at some of the graduates who may be interested – and there are a couple – in doing a second qualification in an area like accountancy, where we are having to give work permits to people who are non-EU nationals because the industry demands cannot be met from our local supply. So the whole idea of the scheme *partly* is to give Gibraltarians an opportunity to come back home and be available in the Gibraltar market and doing something worthwhile in return for the money that we pay them. That is the philosophy of it.

1865 **Hon. D A Feetham:** The position, when you talk about graduates doing research and I think that in my firm certainly there is at least one that has been placed there, one of the many lawyers in Gibraltar. But, is it the hon. Member that, effectively, says 'Look, I am interested in this particular area and I want you to do research in this particular area' or are you giving these particular graduates a very wide latitude to look at areas? What is the brief that is being handed to these individuals?

1870 **Hon. J J Bossano:** In my Department the brief is mine. That is to say, there are things that I want done for me either in the enterprise field or in the employment field or in the legislation field. There are some people... for example, that may be with Dr. Cortes and they are being asked to do research in an area of environmental products that we can be looking at in terms of investing in the programme that we want for, say, solar energy or anything like that. Most of this research is done on the internet and we have got people who have got the skills, because they have done research in order to get their degree. Nowadays, a big chunk of the first degree

1880 today is, in fact, researching projects so it is the research skills that they have already learnt that we are putting into use.

1885 **Hon. D J Bossino:** Mr Speaker, the question was 'how does the scheme work?' What I would like to know, and... forgive me if the answer has been given, but I do not think... If it has, I have not understood it. Who decides, of the pool of 56 graduates we currently have, who goes where? Is that the Minister? Yes. And doing what? Is that the Minister for –

Hon. J J Bossano: No, no, no. Look, the –

1890 **Hon. D J Bossino:** – Employment who could answer this question? For example, he has mentioned that there are two or three graduates working in the Ministry for Health, presumably because they have a certain expertise in that area. He has also mentioned that he has certain graduates – law graduates – who are assisting him in relation to the legislative aspects of the work of Government.

1895 What I want to know is who is the person who decides, or which body, if it is not one individual, which graduates should go where?

Hon. J J Bossano: Well, there is a Higher Executive Officer who is the manager of the company. He is the one dealing day to day with the graduates.

1900 **Hon. D A Feetham:** Just for example... It is just that we are trying to look at the way that this works. For example, you mentioned legislative changes. Of course, when I was the Minister for Justice, I had a programme on crime. We want to reform our criminal offences, we want to reform evidence of procedure. We then delegate to people who can do the drafting.

1905 These are lawyers that have just come out of university. *Presumably*, the hon. Gentleman, when he talks about, 'They are doing some research on legislation for me', *you* are telling them, 'I want you to specifically research this particular area of the law or legislative change that I am thinking of introducing in Gibraltar'. Is that the position or is it somebody else? Or are they given a wide latitude – I do not know – 'Have a look at, in this wide field, in terms of the environment, what are the laws that they have introduced in Gibraltar in relation to this, because we perhaps are interested in introducing it in Gibraltar'? I do not know how the process is.

1910 **Hon. J J Bossano:** Well, the process is dependent on what the area is that is being looked at. In my case, when I have given them the brief to look at labour legislation, I have done it on the basis of getting them to look at Labour legislation in the UK, compare it with what we have got here, identify particularly what the requirements are for the things that I want to achieve. Then that preparatory work means that, when it is passed to the Legislation Unit, it should shorten the process, because some of the stuff has already been done ahead of time, and I can give them a brief with which I am more satisfied that it will not be going backwards and forwards, because it will be more focused.

1920 In other areas, for example, there are things that, as a result of my recent trips, there are things that I have come back with that I want to follow up, on the enterprise side, and I need background information.

1925 **Labour market skills audit
Details and findings**

Clerk: Question 719, the Hon. Mrs I M Ellul-Hammond.

1930 **Hon. Mrs I M Ellul-Hammond:** Can the Minister for Employment provide the details and findings of the skills audit of the labour market that was to be ready by April of *this* year, according to the Government's manifesto?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

- 1935 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Yes, Mr Speaker, the skills audit was conducted in the Department in March and was limited to the construction sector, and particularly to manual workers in the construction sector, since this is the area in which the priority is being given, in terms of future training.
- 1940 This produced a breakdown of 1,912 construction workers, broken down in the following areas: general craft operatives, 286; scaffolders, 50; labourers, 381, semi-skilled labourers, 112; masons, plasterers, renderers and bricklayers, 302; carpenters and joiners, 200; plumbers, 80; painters and decorators, 166; stores operatives, 30; welders and metal workers, 87; electricians and electrical fitters, 101; window fitters, 24; roofers, 19; lift operatives, 23; and drivers, 46.
- 1945 **Hon. Mrs I M Ellul-Hammond:** Thank you for that, Mr Speaker.
Can the Hon. Minister say if the skills audit will be conducted now in other sectors of the labour market?
- 1950 **Hon. J J Bossano:** Well, there is, in addition to this, a skills audit included in the survey questions for the year census which I think starts in October. So that means that the entire population will be subjected to questions which will reveal the... in a much detailed form than we can do it. One of the things is that here we are talking about historical data that has been inputted into our computer, whereas what we are going to have in April is a snapshot of the economy which will be completely up to date.
- 1955 The gap, when the Statistics Office produce the census report this year, they will have a very detailed breakdown which will give us the age profile, the nationality profile, the gender profile and the skills distribution of the whole of the workforce of Gibraltar that is resident. Obviously, we have got something like 7,000 non-resident workers which will not be reflected in that.
- 1960 In terms of what the Department is doing, since we are still at the stage of increasing the labour content in the construction industry, where it was very low, we have not yet moved into other areas. Therefore, I think the next target area for us after the construction is likely to be the retail and wholesale trade. Essentially, the selection of the area is determined and has been decided by virtue of the size. Since construction is the biggest area, the most obvious thing to do was to start with the area which had the greatest possibility of people acquiring skills and us increasing the resident workforce share of the industry.
- The next one on the list would be retail and wholesale, if we go by that criteria.
- 1965 **Hon. D A Feetham:** Mr Speaker, the survey, as I understand it, is effectively the supply side of the skills market. It is not a survey of the demand side. Does the Government intend to do anything on the demand side – in other words, what employers, what kind of skills employers need, as opposed to what is there already in these particular sectors?
- 1970 **Hon. J J Bossano:** Well, no, it is not the supply side; it is, indeed, the demand side. People have got jobs because there is a demand for those jobs. This shows what the market in Gibraltar currently uses. That is the demand side.
- There may be, amongst the 1,000 unemployed, 200 people who want to be carpenters, but that is not reflected here.
- 1975 So he has got it wrong – the wrong way round.
- 1980 **Hon. D A Feetham:** That does not necessarily follow.
- There may, in fact, be people who are unemployed who may actually have skills that you are not taking into account in the survey. There may well be employers that require certain skills that are not reflected in an exercise of that nature, because if you are only analysing... If you are doing a skills audit, just simply by looking who is in employment with what skills, that cannot surely – and I am asking him the question – be reflective *entirely* – it may be *partially* reflective – of what skills the economy and employers in particular require. For all we know, there may be employers that require different skills or, alternatively, for example, if there are 80 carpenters within the sector, there may be a demand for 200 carpenters. It cannot be reflective.
- 1985 **Hon. J J Bossano:** Well, Mr Speaker, we know there is no demand for 200 carpenters, because we have not got 200 vacancies for carpenters. That is obvious. But there is nothing to suggest that the proportions here are exceptional, and therefore it is not an unreasonable deduction from this which will be proved right or wrong when we do the one in October, anyway.

1990 The one in October is going to show what everybody in Gibraltar is doing and that will give us a picture of the whole economy and the distribution of skills. The number of vacancies are a very small proportion of the number of jobs at any one time, but if you look at the nature of the construction industry, the only thing that is likely to produce, I would say, a shift in the composition is if we have got – as we may well have – in the future, a situation where we are moving more to a higher dependence on maintenance work in the industry and a lower dependence on new construction.

1995 The reflection of the industry today, I would say, given the fact that there are no big construction projects going is probably a better snapshot of the long-term core construction industry profile than if we had done this, for example, when we had hundreds of workers in the tunnel, the airport, *Bruesa* and so forth, which might have given us a very distorted picture of the degree of numbers of people in one particular area where there might be a lot of people, for example, putting up steel girders, but who then come in and go.

2000 So I think, in some respects, the snapshot here is likely to reflect more the long-term basic core, which is, in my judgement, going to be around the range of between 1,500 and 2,000 jobs. Here we have got 1,912. But the industry, for example, in the October survey last year which has been tabled in Parliament was that there were 3,500 people in the construction industry. But many of those jobs would not be very useful to us if we are planning the training that we want to provide.

2005 **Hon. D A Feetham:** Mr Speaker, I understand what the hon. Gentleman is saying. The hon. Gentleman is saying ‘Look, we have reached a basement level now, in terms of jobs within the construction industry, which is reflective of what those jobs... the number of jobs in a situation where there is no peak in terms of construction demand for whatever reason.’ But, of course, does he not agree with me that cannot possibly be an accurate picture of skills requirements within the economy? Because he was very critical for example, when we were in Government, of the fact that there was an influx coming into Gibraltar of foreign labour – particularly skilled foreign labour, in particular areas, which... Those jobs were taken over by foreigners because we did not in Gibraltar have those skills. That is the point that... I know that his point is wider, but that is one of the points that he made.

2010 Therefore, does he not agree that he needs to undertake a survey of the skills that employers, for example, may say, ‘Look these are skills that we always require within this particular industry’, because you are undertaking a number of Government projects, for example? When those Government projects launch and start, then there will be a spike and, unless you are well prepared in terms of matching future projected skills with the skills that we have in the market, particularly amongst Gibraltarians, the jobs are always going to be taken by people that come out from the outside, because we do not have the skilled labour here.

2015 Hence why I am urging him to not just simply focus on what there is now at a basement level, but to undertake – and I think I have said this before to the hon. Gentleman across the floor – also undertake an appropriate survey of the skills that the employers themselves, within these particular industries, think are necessary in terms of skills and skills that, actually, from my own knowledge of speaking to employers, are always needed within the sector.

2020 **Hon. J J Bossano:** Mr Speaker, the skills we always need are the skills that are here – not the skills when there is a sudden big project. If somebody comes tomorrow and starts investing in a big way, and there is a lot of construction then, throughout our history, there has been a situation where people have been brought in, from the days of the Filipino hostel onwards, done the job and gone. The hon. Member seems to be under the misapprehension that these are 1,912 Gibraltarians. All the imported labour is included in this.

Hon. D A Feetham: I understand that.

2035 **Hon. J J Bossano:** Well, then, if he understands that, he will understand that, in fact, by knowing that there are, for example, 60 scaffolders and if there are only six who are locals, I know that there is a potential for 54 more.

2040 **Hon. D A Feetham:** Unless, of course, what the hon. Member – and I am asking – I quite understand his analysis – unless of course what he is planning is, what he is saying to me is this: there are 1,500 people within this sector, or whatever the number is. ‘There are these skills: 40% are Gibraltarians; 60% are foreigners. I plan in the future to get rid of the foreigners so that Gibraltarians take that 60%’ – is that what he is planning?

2045 **Hon. J J Bossano:** Well, I cannot say...
that it is not something that Gibraltarians will welcome, but the reality of it is that foreigners and Gibraltarians lose their jobs when construction projects finish. They do now and they did a year ago when the party that he now calls 'his' was in Government. Therefore, that will be a feature of the industry.

2050 The fact that we import people because we haven't got them does not mean that we have to say to our school leavers 'I am not going to train you so that we keep on importing people because we don't have locals'. The training will be determined by the prospects of employment, the selection of the skills. If we have got a situation where, for example, we have got very few carpenters and lots of painters, then the logic is to concentrate on training more carpenters. Why, because we want to have in Gibraltar the day when we don't need to import carpenters, except for exceptional things that are going to have a start and a finish.

2055 There is no reason why we should have non-Gibraltarians and non-residents in Gibraltar working long term on Government buildings or in Government Departments. No reason whatsoever. And that is the heritage that the previous administration, of which the hon. Member is now so proud, has left and which we intend to put right.

2060 **Hon. D A Feetham:** So effectively what the hon. Gentleman is saying is that he plans to get rid of foreign labour working within the public sector.

2065 **Hon. J J Bossano:** Well, Mr Speaker the hon. Member chooses to put it in a pejorative way and I choose to put it in a positive way. I intend to ensure that the proportion of *our* people in work in Gibraltar in the public and in the private sector increases for every single month that I am in office. *(Applause)*

Hon. D A Feetham: Is it true that the hon. Gentleman personally phones companies within the private sector saying: 'You are not getting a Government contract unless you sack foreign labourers and you employ Gibraltarians'?

2070 **Hon. J J Bossano:** No it is not true, I haven't found it necessary, but I will take his advice into account if I need to use his ideas. *(Laughter)*

Clerk: Question –

2075 **Mr Speaker:** The Hon. Isobel Ellul-Hammond.

2080 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, will the... Looking at the private sector, will the Government be identifying gaps in the market – for example, the number of accountants that are needed in order for our economy to progress? Will the Government be surveying the private sector and perhaps identifying and encouraging these educational programmes for young Gibraltarians to pursue in order to fill those gaps?

2085 **Hon. J J Bossano:** Well we know, in fact already, that... accountancy, which has been identified by the hon. Member, is an area clearly where we have got a shortage. There have been, for as long as I have been in the Department, unfilled vacancies for people in accountancy which we are not able to supply. Therefore, whenever people come and register, if they have not got accountancy qualifications but they have got, for example, 'A' levels or degrees, the Department interviews them and tries to persuade them to look at the possibility of accountancy.

2090 It is quite obvious, for reasons that are not very clear to me, that accountancy is not everybody's cup of tea. So we seem to have a problem. It is an area where we are now, in fact, meeting a requirement from the industry for work permits for non-EU nationals to come in. What we are doing is granting those work permits but on the basis that we will look, in the future, to replace the people we are importing with locally trained staff.

2095 I think I want to take this opportunity of saying that this is an area which is one that gives secure, more secure employment, I would say, than almost anything else, other than lawyers, in the private sector, given that, irrespective of the industry, they all need accountants. So even if there is an industry that is shrinking and another one is expanding, these are transferable skills. It is something we should be encouraging and I hope that people will see this as a future.

2100 The Department is very keen to give whatever assistance, both technical and financial, to people who want to go into that area. In *other* areas the bulk of the vacancies that are registered are in the gaming industries and, there, at some point I will need to be educated by the people in those industries as to what exactly it is that they want – because I'm afraid that I cannot even understand the labels.

2105 **Hon. Mrs. I M Ellul-Hammond:** Mr Speaker, is this something that perhaps your Department will be working with the Department of Education on, in order to identify these skills – and maybe the Department of Education can market these to students to perhaps pursue as future careers?

2110 **Hon. J J Bossano:** Well, I believe that is something that has been absent in the past and we need to see what we can do to correct that in the future – what there should be in terms of the careers guidance. There should be a briefing about what are the demands for labour in the economy, as reflected in the vacancies that are open and the prospect of those demands changing or remaining the same.

2115 So, I believe very strongly that our young people should be given the opportunity to study whatever they want to study, therefore to develop their intellect and, their innate abilities to the full and that we, as a community, should be proud of them and be willing to finance that. But I think people have also got to be made aware that that may mean that, once they have studied that, there are no prospects of employment in Gibraltar and that, therefore, they have to balance whether they want to spend their years in higher education in the UK acquiring skills that are marketable in our economy or acquiring something that is their passion in life.

2120 I think we should finance both alternatives but I think more needs to be done, in terms of careers advice, as to indicating to people which are the kind of skills that give them the best chance of employment and which are the ones where, when they come back, they really have to learn to do something else to earn a living.

2125 **Clerk:** Question –

Mr Speaker: No. The Hon. Daniel Feetham.

2130 **Hon. D A Feetham:** Yes, I thought he said, with his usual smile that sometimes spells trouble... when he said he would be turning his attention to the gaming industry, 'I don't understand the labels' That made me quake slightly in my boots because the gaming industry unfortunately in Gibraltar is going to be facing some difficulty, particularly next year, in the light of legislative changes that are going to be made in the United Kingdom to betting tax source.

2135 May I urge, and does he not agree with me, that at this particular time, when that particular industry which, after all, employs 2,200 people in Gibraltar – the bulk of them may not be Gibraltarians, but in terms of the economic value of that through taxes and duties, and indirectly as well, a knock-on to other industries, that provides an immense benefit to Gibraltar – does he not agree with me that he has to tread with care in how he approaches the gaming industry in particular, listen to them very, very carefully and do nothing that can upset a very fine equilibrium, in terms of decisions that boardrooms and directors may make in relation to whether they stay or leave Gibraltar as a consequence of legislative changes in the United Kingdom?

2140 **Hon. J J Bossano:** First of all, Mr Speaker, I want to reassure him that he does not have to 'quake in his boots', because my bark is worse than my bite!

2145 **Hon. D A Feetham:** No, I don't accept that! (*Laughter*)

Hon. J J Bossano: The industry wants to meet me, actually. So the initiative has come from them, not from me. I plan to sit down with them in a spirit of comradeship to learn from them. (*Laughter*)

2150

2155 **Basic Training Courses**
Availability and starting dates

Clerk: Question 720, the Hon. Mrs I M Ellul-Hammond.

2160 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Training tell us when the following courses will be starting at Bleak House: (a) the OCR Levels 1 & 2 of Numeracy & Literacy; (b) the CLaIT Courses, which are the computer and IT courses; and (c) the generally known as 'life skills' basic courses for Special Educational Needs students who are no longer within mainstream education?

2165 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, I am not in a position to say when the courses specified in (a) and (b) will be starting at Bleak House and, as regards (c), I am not aware that any such courses have ever been carried out before.

2170 **Hon. Mrs I M Ellul-Hammond:** Can the Minister explain why these courses stopped in May?

Hon. J J Bossano: I answered that question in the last House, Mr Speaker.

2175 **Hon. E J Reyes:** Perhaps the Hon. Minister can enlighten us a bit further.
In the last House he said that the course ran up to examination time that happened in the month of May, yes, but there has been no follow-up, no further courses for those who have a need to get these qualifications? One set was prepared for examinations up to May and that is when they sat their exams.

2180 My understanding, unless the dates have changed, is that there is probably another set of exams scheduled now for November. The course has not started yet, therefore those students would not be adequately prepared to sit the examination in November.

2185 **Hon. J J Bossano:** Apparently, I am told that these courses were offered to people on the VTS Scheme that no longer exists. Therefore, they are being looked at in the context that now we have got people who are in the Employment Training Scheme who are, in effect, in employment with ETCL, with an agreement with an employer that is going to take them on.

2190 So, unlike the people who were doing these things before, *so I am told*, because this came from what was then the Bleak House education side of the outfit, the people who are getting the £300 or £400 a month were given day release to do this. Therefore, we are looking at how we can provide the equivalent to those who are in the new system but may still benefit from this, which may not be in the same numbers that there were before, and whether we should continue to do it in Bleak House or whether we should be looking to the College to do it.

Therefore, the answer is I am not at the moment able to say whether this exercise that is currently being conducted is going to be finished in September or there may be a further delay.

2195 **Hon. E J Reyes:** Thank you, Mr Speaker, but can I add for the Minister's consideration, (*Interjection by Hon. J J Bossano: Sure.*) although the potential employer has that commitment to take him on, does it not help to improve the employability prospects of the individual if he were, whilst he is receiving the allowance – which comes from taxpayers' money – if he were able to complete these qualifications because they are basic skills that will be needed perhaps now and also for the future?

2200 We are looking, as well, at the long term prospects of the individual... So there is a lot of educational value on this. I just want to put it forward to the Minister that he considers it and, if need be, I am willing to sit down with him, as well, outside this Chamber and give him my personal view, from experience as well as an educationalist, so that we can give a package as good as possible for the individuals, even if it does mean, Mr Speaker, that the Minister may want to provide these courses outside, let us call it, the routine 9.00 to 5.00 working hours so that the individual has better prospects for future employment now and in the future, because someone starts in a junior post with a particular employer and then wishes to aspire...

2205 So, in the same way that the Government has continued doing it, for example, for those in accountancy firms where we help them do after office hours, we do the AAT and ACCA courses so they can aspire to

2210 become accountants – and we do not have to import accountants, on which both sides of the House are in agreement – we can do this right down to basic level. Perhaps we can meet one day for a cup of coffee, the Minister and I, and share it in a manner that makes it more beneficial for these youngsters?

2215 **Hon. J J Bossano:** Yes, Mr Speaker, I welcome that offer of assistance and I will take him up on it. Thank you.

**Equalisation of Old Age Pension
Commitment for both sexes at age 60**

2220 **Clerk:** Question 721, the Hon. J J Netto.

2225 **Hon. J J Netto:** Can the Minister for Social Security state if the Government is still committed to introduce equalisation of the Old Age Pension at 60 between both sexes during this term of office in line with their manifesto commitment?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

2230 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker, I will answer this question together with Question 722, 737 and 738.

**Planned changes to Social Security Fund
Confirmation and details**

2235 **Clerk:** Question 722

2240 **Hon. J J Netto:** Given the comments of the Minister of Social Security in his Budget address this year, in which he stated that he will be bringing about new arrangements to the Social Security Fund in this financial year to coincide with the increase in the Old Age Pension, could the Minister say if this indeed has happened, or will happen soon, and provide the details of such changes, if any, and whether this will be happening through administrative changes, or by primary legislation?

2245

**Social Insurance Fund
Reform of structure**

2250 **Clerk:** Question 737, the Hon. D A Feetham.

Hon. D A Feetham: When will the Government be in a position to implement its manifesto commitment to reform the entire structure of the Social Insurance Fund?

2255

**Pensionable age
Equalisation for men and women**

2260 **Clerk:** Question 738.

Hon. D A Feetham: Does the Government intend to equalise pensionable ages for men and women in any new pension schemes?

2265 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, the position remains as stated in the manifesto and in answer to Question 125/2012.

2270 All new pension schemes are required to equalise pensions for men and women. Should the changes to the Social Security Fund require primary legislation, a Command Paper will be presented in Parliament and the hon. Member will have 10 weeks in which to look at the proposed text.

2275 **Hon. J J Netto:** Mr Speaker, if I may, the reason why I ask in relation to Question 721 is because the last time I asked this Question, which was back in February, and looking at *Hansard* in front of me here there was perhaps slightly some confusion, which *I think* needed clarity... clarity in the sense that, regardless of the answer that the Hon. Minister gave me, the last time, back in February, inasmuch as saying, well, European legislation *will provide* that there will have to be equalisation... despite that answer which he gave me back in February, one has to consider the fact that when the GSLP/Liberals actually produced their own manifesto, it is a manifesto for Government over four years, if elected by the people of Gibraltar.

2280 In the context of that manifesto, as opposed to the context of what may be the legislation, or the legal position, in the European Union, I am asking the question whether it is the view of the Government that, in order to honour that manifesto commitment, as stated in the manifesto, they will do it within their term of office, as opposed to having to wait for it, whenever being told to do so by the European Union. This is what I am trying to obtain an answer to from the hon. Gentleman, if I may.

2285 **Hon. J J Bossano:** Mr Speaker, since I have answered 'the position remains as stated in the manifesto', I think he has got his answer.

2290 **Hon. J J Netto:** Mr Speaker, can he tell me – perhaps provide me an answer – whether they will do it... because it is not clear from the previous answer whether they will do it within *this* term of office or they will simply put it to rest and they might do it if they get an instruction from the European Union to equalise it at some future date. That is what I am trying to find out.

2295 **Hon. J J Bossano:** As far as I am concerned, Mr Speaker, everything in the manifesto will be completed before the next Election. (*Interjections*)

Hon. D A Feetham: Well, I am glad to hear it.

2300 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** That is the whole point of a manifesto.

Hon. J J Netto: Do I take it, then, that this policy will be implemented by the end of this term?

Hon. J J Bossano: As stated in the manifesto, Mr Speaker.

2305 **Clerk:** Question seven hundred –

Hon. D A Feetham: His answer is very clear: everything in their manifesto will be completed this term. That is the answer.

2310 Does he have any plans, and if he does, can he share it with the House, about the restructure of the Social Security Fund?

Hon. J J Bossano: Obviously *I have* got plans, but I am not prepared to share them.

2315 **Hon. J J Netto:** Mr Speaker, can I also ask a further supplementary question, and this is in relation to Question 722.

One of the things I would like to know is in previous answers to *my* Questions, the Minister did say that the increases in the old age pension, I think he stated would happen as from the second quarter, meaning... yes, from the second quarter. We now find ourselves in the position, from the Government press release on

2320 the matter, that the increases will be given to the old age pensioners as from 1st October retrospective to 1st August – I think that is the statement from the Government – but given that he has also made commitments in the past that he will honour no erosion in the purchasing value of the old age pension by applying the index of retail prices to it, it seems to me – and I am not an economist; perhaps he can enlighten me on this – that by applying the index of retail prices of 1st July, pensioners may be somewhat out of pocket for a small amount of money.

2325 I would have thought that if the increases were being made on 1st October, rather than make it retrospective to 1st August it would have been made retrospective to 1st July. I understand and I accept that, obviously, he got the latest available figure, which was the figure of 1st July – fair enough, I am not saying that... If that is the latest available, that is the latest available, but why make it retrospective to 1st August and leave a complete month outside of the equation, because even if it is a small amount of money – whatever the changes to the index of retail prices are – for pensioners it is something that they value.

2330 So, if that is correct, if my analysis is correct, why does not perhaps the Government reconsider its position and make it retrospective to 1st July and not to 1st August?

2335 **Hon. J J Bossano:** Mr Speaker, I am sure the hon. Members know that this is not the first time this has happened and that this has happened previously in their 15 years where the dates have not coincided but, be that as it may, we picked 1st August because the confusion in the question that he is putting is that what I told him was going to happen in that quarter was not the reform of the Social Security but putting in a way of revaluing the pensions so that the minimum income guarantee did not subsequently have to be reduced, which is something that happened when he was there, and therefore he will see that on *this* occasion, when the payment has been made from the beginning of August, we have not made any allowance for the increase of December of the minimum income guarantee of 2011. That has not been deducted and therefore what we are trying to do is review the relationship between the household cost allowance, the minimum income guarantee and the old age pension so that they all go up at the same time and you do not have different payments going to the same people on different dates, and then you find that, because some are means tested and some are not, it has to be clawed back and people do not understand it.

2340 Quite apart from anything else, the pensioners cannot understand how they get an increase in January and then, in July, they are supposed to be getting another increase, and when the second increase comes the deduction of what they got in January – which is what happened last year – in some instances happened to be higher than the new increase. So people were saying, ‘Well, how can I have got an increase and I finished up with less money?’ Never mind a percentage that did not cover – less money in pounds, shillings and pence! Therefore, that is the explanation that I gave him in the last Question when he asked me and that is what he is referring to about the increases in the old age pensions being brought in at a particular time of the year. It was to coincide with the increase in pension, the review of the household cost allowance and the minimum income guarantee.

2355 What we have done this year is that we have ignored the past increases in order to try and rationalise it. It has nothing to do with a new pension scheme. It may well be that people are slightly out of pocket for one month as a result of those who do not get the minimum income guarantee not being benefited by the other changes, but it is not the first time that it happens.

2360 **Hon. J J Netto:** Mr Speaker, I have not got the figures in front of me to know whether it has happened in the past or not, (*Interjection*) but there is definitely a recognition on his part that there will be at least some – I do not know how much to quantify how big or small the sum would be – who will be out of pocket, and all I am asking, and all I am suggesting, is for him to consider whether, instead of making it retrospective to 1st August, make it just retrospective to 1st July, which is where you are getting the figure from.

2365 **Hon. J J Bossano:** No. The answer is no, I am not prepared to consider that. No.

Hon. J J Netto: Sorry?

2370 **Hon. J J Bossano:** No. The answer is no. He is asking me to consider it and I am saying to him no, I am not.

Hon. J J Netto: Can you give me an explanation at least why not?

2375 **Hon. J J Bossano:** Mr Speaker, I asked him last year to consider not taking money away from pensioners and he said I was not telling the truth, and he was lying and I was telling the truth.
He, last year –

Mr Speaker: Order!

2380 **Hon. J J Bossano:** – had representations from me –

A Member: Mr Speaker –

2385 **Mr Speaker:** Order!

A Member: Mr Speaker, on a Point of Order.

2390 **Mr Speaker:** May I just remind the Hon. Minister, we do not permit ‘lying’. So, perhaps, if he could rephrase that, the use of the word ‘lying’.

Hon. J J Bossano: I am only using it because he used it last year about me and now it is my chance to say it, too.

2395 **Mr Speaker:** Well –

Hon. J J Bossano: If he was forgiven for it last year, I can be forgiven for it this year. (*Interjections*)

Mr Speaker: If it escaped me last year, I apologise for that, but it has not today.

2400 **Hon. J J Netto:** Mr Speaker, the workings of how the minimum income guarantee operates, in taking into account all incomes of a particular person, is neither here nor there to the issue which I am raising. That is completely alien to the point I am making, and the point I am making is nothing to do with taking into account the increase of the old age pension or taking into account the increase of the household income support that he mentioned. The point I am making is he is making an increase of the old age pension on 1st October retrospective to 1st August, whereby he obtained the level of increase of 4.2% as it stood on 1st July. He has recognised the fact that some pensioners will be out of pocket, and all I am saying – which has nothing to do with how the workings of the household income guarantee operates – is to take it into account so that *nobody* is out of pocket. That is what I am saying.

2410 **Hon. J J Bossano:** And my answer to him is that ‘out of pocket’ for him means that some people might have got slightly more than they would have got if we had done it in July, obviously, and if I had done it in June they would have got even more, but being out of pocket is not this. Being out of pocket is what *he* did last year when he took the money out of their pockets. The money was *in* their pockets in June and he took the money out in July, and when the pension increases were given out last year, there were pensioners who came to see me, who made representations to me. I wrote letters. He said that the letters had been fabricated by me and that I had invented the people who existed!

2415 **Hon. J J Netto:** Yes. By you! By you!

2420 **Mr Speaker:** Order! Order! Order!

2425 **Hon. J J Bossano:** Mr Speaker, I was doing my job in the Opposition, advising people who had lost money from their payments by the Department under *his* ministry when *he* was there, and he was the one who took the money out of their pockets. *That* is how they were out of pocket. *He* put *his* hand in *their* pocket and took money out of it, and I gave him advice of the letters that they had to write to try to get the money back from him, and he refused to give it to them.

This year, I have made sure that those people that *he* prejudiced last year are in a better position, and therefore, just like he did not take my advice and my representation last year when people were affected –

2430 who were the people at the bottom of the income; the people who were means-tested were the ones that he took the money away from and he did nothing about them – I am not going to do anything that he is advising me, and that is the end of the story. He can take it or he can leave it.

2435 **Hon. J J Netto:** Mr Speaker, this is not about taking money away from any particular pensioners while I was the Minister, because it is... The actual formula of how the minimum income guarantee operates is that if any particular pensioner receives money from whatever source it is, it is taken into account in order to determine the level... whether that particular pensioner needs the minimum guarantee or a certain level of money within the minimum guarantee. So whatever money comes in from one side is taken into account, into the calculation. That is not taking money away. It is neither taking money away from what he is pretending to do, which is to say, 'I am going to put the two dates together so that the increase in the old age pension is taken into account and then pensioners do not see that there is a diminution. He is doing exactly the same thing as I was doing, albeit that, last year, it was on a different date. So it is not a question about taking money, and even if he wants to do all the shenanigans in the world to turn the whole issue upside down to confuse everyone, fine, but I am not talking about that.

2445 *Even if he is right, which he is not – even if he is right, which he is not – the issue is not that. The issue which I am making, and I am asking him to consider, although he is very obstinate –*

Mr Speaker: And he has answered.

2450 **Hon. J J Netto:** Although he is a very obstinate man –

Mr Speaker: Well, he has answered.

Hon. J J Netto: – is that given that –

2455 **Mr Speaker:** Order! Order!

If that is the question, it has been answered. You are repeating the same question, which is really not on. The question has been put and the Minister has answered, in no uncertain terms: no, he will not do it. You will have to leave it at that.

2460 Next Question, please.

**Social Security Department
Outstanding Higher Executive Officer position**

2465 **Clerk:** Question 723, the Hon. J J Netto.

2470 **Hon. J J Netto:** Mr Speaker, is the Minister for Social Security in a position to say when the outstanding position of Higher Executive Officer in the Social Security Department is going to be advertised so that civil servants can apply?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

2475 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Yes, Mr Speaker, the post became vacant on 1st September 2010 and the vacancy was advertised on 21st September 2011 during the period that the hon. Member was in Government, so the answer is it was advertised by him already.

2480 **Hon. J J Netto:** Mr Speaker, have interviews already taken place for people to apply for the posts and are they being considered?

Hon. J J Bossano: Mr Speaker, I do not monitor the movement of people in the Civil Service or the promotion board.

The Civil Service does not come under me and this is done by the people in Human Resources and the

2485 Public Service Commission. All I can tell him is the Question is not whether the job has already been filled; the Question is to tell me when people are going to be able to apply, and the answer is they have been able to apply since he was in Government on 11th September 2011. For all I know, they applied before 9th December.

2490 **Hon. D A Feetham:** Sorry but don't you know, it is perfectly, you would have been able to see the supplementary coming, I mean it is a supplementary that is obvious. Don't you know whether this particular post has actually been filled or not?

2495 **Hon. J J Bossano:** No, I don't know whether it has been filled or not, all I know is that I find it very strange that somebody who is now in Opposition should not know that he advertised the job on 11th September and he is asking me when I am going to do it and he did it in September last year. So I don't know whether the post was filled before the General Election.

2500 Mr Speaker, the answer that I have been given is the answer provided by the controlling officer of that budget and the Head of that Department and this is not a political decision that I take in selecting who goes to an interview or who gets picked. But the hon. Member is asking me, as a Minister responsible, when I am going to advertise this HEO vacancy. I took it for granted that the Member knows that it is there and, therefore, I asked the Department whether you are going to advertise it and the answer the Department has given me is that they advertised it in September last year when the questioner was in Government. Well, what supplementary does he want?

2505 **Hon. D A Feetham:** Sorry so you come prepared to make a political point but you haven't come prepared – you are so –

Hon. J J Bossano: I have come prepared.

2510 **Hon. D A Feetham:** No, with respect, you are so blinded, you are so blinded with your desire to make a political point to try and embarrass the Member sitting to my right that you haven't made what are reasonable enquiries which are – because certainly I would have, I would have said well, if it has been advertised, has it been filled? Now, if the hon. Member is not really interested in providing the information to this House and all he is interested in is making petty political points and trying to embarrass his political opponents, well fine.
2515 Does he not know –

Hon. J J Bossano: What is the question?

2520 **Hon. D A Feetham:** The question is this, does he not know anything about this particular post in terms of the filling of the post, how many applicants there were, whether it remains vacant, none of that?

2525 **Hon. J J Bossano:** Mr Speaker, let me make clear one thing to the hon. Member opposite. The work that I do in my Department is not dictated by the information that they may want or may not want. Therefore, if the hon. Member says to me when is the vacancy going to be advertised – I pass that question to the Department and get them to answer it. If the hon. Member is so incompetent and he may or may not be embarrassed – but in the forty years that I have been here I have never heard anybody ask when something is going to be advertised which *he* advertised when he was in office on 11th September. If his memory is already failing at his young age I hate to think what will happen to him when he gets to 73. All I can tell him is he has got the answer to the question on the order paper and, as far as I am concerned, there are no supplementaries to something which is so absurd that he is asking me about a vacancy to be advertised which he should know he was the one who advertised it.
2530

2535 So if the hon. Member thinks that I am doing this to embarrass the hon. Member he is wrong because I know that the hon. Member that is asking the question is *incapable* of being embarrassed. I have heard him say so many things from this side of the House and he never batted an eyelid when it was demonstrated that he hadn't a clue what he was saying and never became embarrassed. So there is *no chance* of him becoming embarrassed.

Clerk: Question –

2540 **Mr Speaker:** The Hon. Jaime Netto.

Hon. J J Netto: Can I come to the point. First of all, obviously, the Minister is not the person who advertises the vacancies. It is the department. So it is wrong to say that *I* advertised the vacancy. Secondly, I mean time has passed and we passed a new Appropriation Bill where in the Estimates Book of Revenue Expenditure, it tells you on the Head of the Department, the particular persons who are in post or not and I think I am entitled, with the passage of time, to ask what I think is a reasonable question without the hon. Member getting aggressive or hot and cold under the collar.

2545 I think it is a perfectly reasonable and legitimate question and I would have thought that we are dealing not with an AO but we are talking about a senior manager in an important department like Social Security, in a position of HEO, that the Minister *would* be aware whether that particular vacancy has been filled or not. I think that Ministers ought to know that senior management are in post and, if they are not in post, why they are not in post or what is the process to get them advertised. As my hon. Friend said... I have just missed the point now. (*Interjection*) –

2555 **Mr Speaker:** Yes, would the Member get to the question.

Hon. J J Netto: Yes, indeed. So I would have thought... and perhaps he could consider whether the interviews have taken place and whether he wants to have this position fulfilled permanently, as opposed to an acting basis for a long period of time. After all, we are talking about how he has been in Government for nine months and I would have thought that he would want to see a permanent person in a higher position in the Department.

2560 **Hon. J J Bossano:** Mr Speaker, when *we* came in, the number of vacancies of EOs, HEOs and AOs that were vacant and had been vacant for years, would have filled a book (*Interjection by Hon. N F Costa: Especially in the GTB. For years.*) – before 9th December – and suddenly not to be on top of a HEO vacancy being filled in nine months is a dereliction of Ministerial duty. Well, look, I will provide the hon. Member for his benefit –

Hon. J J Netto: I didn't say that.

2570 **Hon. J J Bossano:** What is the hon. Member saying? I should know if the job has been filled and I should be interested in filling it. Well, does he want me to tell him all the jobs that were not filled before 9th December and how long they had been unfilled and how nobody in the Government of which he formed part, seemed to care at all that they were not filled.

2575 The answer is when vacancies are open within the Government for promotion, people apply. I assume that the vacancy that was open on 1st September 2011 produced applicants. I assume that the applicants were interviewed. I assume that they were selected before the Election because it would be an unusual thing – (*Interjection by Hon. D A Feetham: It is in the Estimate book as not having been filled. This is what he is saying.*)

2580 Well I don't know why – he says the Estimate Books, he says it identifies the people who are filling the posts, I don't think it does, we don't have names in these – we have got a complement that may say two HEOs or three HEOs. I mean at any point in time Mr Speaker where you have got a situation where the public sector has got five thousand people, five thousand at any point in time, while we are speaking there are jobs being filled and jobs becoming vacant constantly, all over the place. This is an ongoing thing. There are people who are permanently employed doing nothing else in the Government and therefore the reality of it is that when I read the Question, I assumed naturally, that it was a job that had been filled before the Election and had become vacant since the Election and that therefore the thrust of the Question was if the job had become vacant, why wasn't I filling it. That is what I took it to be. It was only when I asked the Department why are we not filling it, that I was told well look the advert came out in September. It would be very unusual if the advert had come out in September and nobody who was an EO anywhere in Government had applied. Yes, that would be very unusual. But, I am answering the original Question and the supplementary would have been logical and legitimate if the answer had been it has still not been advertised or it was advertised last week. But if it was advertised three months before I get there and he was there and he doesn't know whether it was filled, why does he expect me to have to know when he didn't know?

2590

2595 **Hon. D A Feetham:** Well, because you are responsible for Government and for this area of Government business.

Hon. J J Bossano: Yes, Mr Speaker, I am responsible since 9th December and this happened on 1st September.

2600 **Hon. D A Feetham:** May I, May I because the hon. Gentleman is going to blow a gasket and you know...

Hon. J J Bossano: Oh don't worry about it.

2605 **Hon. D A Feetham:** And you talk about *his* young age, and at his age, I wouldn't want that to happen. Now, this kind of exchange does no credit to the House – tempers can flare, sometimes they flare and sometimes they flare with important issues. On this particular issue I don't see why tempers ought to flare and it doesn't do credit to anybody.

2610 Can I ask the hon. Gentleman that perhaps he might look into this and write to the hon. Gentleman, just to see whether this particular post has in fact been filled or it has not been filled. It may well be... he has probably asked the question in this particular format because he knows that the post has not been filled and, of course (*Laughter and interjections*)

Could I ask the hon. Gentleman to just write to us, to write to the hon. Gentleman, Mr Netto, as to whether this particular post has been filled or it has not been filled.

2615 **Hon. J J Bossano:** Mr Speaker, first of all, I can assure the hon. Member – to put his mind at rest – that I am in robust state of health (*Applause and laughter*) and in no danger whatsoever of blowing a gasket or having to be visited by him on my deathbed. There is not the remotest risk of that happening! But I want him to be reassured because I know how worried he is about that possibility, because he keeps on saying it.

2620 Secondly, the answer is no, I am not prepared to write to him. If he thinks that this brings the House into disrepute, well, I don't know what he thinks of the performance of yesterday, but I was told that that was hair-raising. I wasn't here to enjoy it and I am sorry that I missed it, I must admit.

2625 So the answer is no. The hon. Member has put a question, the question, in my view, is not something for which I am responsible because the answer to the question is that he is asking me when it is going to happen: I have told him has happened already. I think that it is not my responsibility to go to the Department and find out what was happening before 9th December because the vacancy was there in September and it is inconceivable, not to say almost impossible, that nobody should have applied between 1st September and 9th December for an HEO vacancy That is unheard of. So, therefore, there must have been applicants when he was a Minister. Now he wants me to go back and say I am going to write to you to tell you what happened when you were there. Is that the idea?

2630 **Hon. D A Feetham:** Not necessarily.

Mr Speaker: Anyway, I think we should move to the next Question.

2635

**Drug or alcohol offenders
Finding employment after prison sentence**

2640 **Clerk:** Question 724, the Hon. J J Netto.

2645 **Hon. J J Netto:** Mr Speaker, can the Government state how many individuals recently have finished a prison sentence arising to, or due to, the individual's addiction to drugs or alcohol and have been assisted to find employment or are still registered as unemployed and, if so, can the information be provided on a monthly basis?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

2650 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker, I am informed that no individual serving a prison sentence arising from, or due to, the individual's addiction to drugs or alcohol has finished so far this year.

2655 **Hon. J J Netto:** Mr Speaker, does the Minister for Employment, or is he aware, perhaps, as a result of the interface between his employment officers and registered unemployed persons, that some of them may have, or do have, an addiction or an affliction to drugs and alcohol and, in the past, may have even have served sentence in prison?

2660 The reason why I am trying to focus on that particular point is because, at the end of the day, I am sure we all want to try and assist as much as we possibly can those particular persons who may find it very difficult to get back into employment. So really, my question is, even if he has not been informed in the manner in which the question is asked, I am sure that perhaps he may be aware by now, given that he has been there for nine months, that there are registered unemployed persons who, sadly, are afflicted by these circumstances and they need all sorts of help in trying to assist them into employment.

2665 **Hon. J J Bossano:** Mr Speaker, I am aware that there are people who have been in this problem, primarily because in the area of the public sector some of the candidates that we said do not get past the vetting because of problems in the past like this. That is something which I think needs addressing. That is a separate issue.

2670 But I can tell him that the people concerned that have got that kind of problem I have not found difficulty in getting into employment without having to give them special treatment, just on the basis that we are putting them in, with the effort that we are making to get people in the construction industry, where there are people who are capable of working in that industry. In other areas, it may be more difficult but, as I have said in the past, we have got a very high level of people unemployed, and the people in this category are a very small proportion of the total. It is not as if...

2675 If you had a situation where you have full employment and you have got a minority of people who have great difficulty in getting a job when everybody else is getting it, then it is a different issue. But the reality of it is that we have got a high level of unemployment, and that, notwithstanding the fact that there are more people working now than there were in the past, the figures are not coming down.

2680 **Hon. J J Netto:** I understand that and I accept that to be the case, but every individual is different in their own circumstances in life. But focusing on this particular group of people, I just wonder whether the Minister perhaps is aware that some of them are now what we call long-term unemployed, meaning registered unemployed for more than 12 months, and perhaps one of the reasons why they are long-term unemployed is because in some – I am not saying all of them – they may have literacy, numeracy problems in order to be able to sell themselves to an employer for a job. On other occasions, it may be that despite being academically suited or skill-wise suited for the particular vacancy, some employers may say, 'Well, shall I take the risk of employing someone with a track record, having served a sentence in prison?'

2685 Perhaps one of the ways, which is one of the ways I remember we used to do, back in 1996 to 2000, was in some cases, we used to have even a wage subsidy to those long-term unemployed persons with this sort of affliction, to try and induce the employer to get these particular persons back into employment.

2690 What I am trying to find out, in the form of a question to the Minister, is to see whether, with the data available in his office, whether there are people in this group, long-term unemployed, who may need specialised focus, in order to try and get them back into work.

2695 **Hon. J J Bossano:** There is no data in the records of the Department as such, but the people who have had problems of this nature in the past – who have had prison sentences in the past – that I am aware of are the people who have actually come to see me in the interviews that I have given.

A couple of weeks ago, for example, I saw 107 in one week. So I can tell him that there are a number of people in that category that have actually talked directly with employers and, as a result of, in effect, underwriting them and giving a guarantee about their reliability, they have been taken on.

2700 In one particular case, for example, there was somebody that I think had made great efforts to break with the past, had been going to do the AAT courses in the college and still could not break into a field where there is a huge shortage, which is accountancy, and I am happy to say that he is now working.

Clerk: Question 725, the Hon. J J Netto.

2705 **Deputy Chief Minister (Hon. Dr. J J Garcia):** Mr Speaker –

Hon. D A Feetham: I had a supplementary – just one supplementary on the previous question. But of course, he is perfectly entitled to call the adjournment.

2710 **Mr Speaker:** Well, if it is only one supplementary, I am sure the Hon. Deputy Chief Minister does not mind.

Hon. J J Bossano: I will take the supplementary.

2715 **Hon. D A Feetham:** Yes, well, first of all, can I congratulate him in relation to this particular gentleman. He came to see me, just before the General Election and I know that it was a difficult case, but I, like him, am totally convinced that the gentleman is a reformed character, despite the seriousness of the offence that we were talking about, that he committed in the past.

2720 But I thought that he said in relation to – maybe I misheard – the public service, that we cannot employ people with criminal convictions in the public service, because of General Orders. I thought he said that that is something that we have got to look at. Is that what you said? Can you elaborate on that?

2725 **Hon. J J Bossano:** Certainly, I can tell him, we had a case last week, where an applicant for the job of cleaner in the public service was told that she had not been successful in the vetting because, in the process of an acrimonious break-up of a marriage, she had a row with her former husband, who reported her.

Well, look, if that is what the vetting produces, then we have somebody from al-Qaeda who goes into people's houses and somebody who has a row with her former husband who cannot get a job as a cleaner! There is something wrong with that system – that is what I am saying, so it needs to be looked at.

2730 **Hon. D A Feetham:** But, for example, I know that... These are difficult issues.

When I was a Minister, I used to come across them, and they are frustrating, but in relation to the Future Job Strategy, for example, I know of a number of instances of individuals that have had quite serious prison sentences who are now, as a consequence of the Future Job Strategy, being placed within Government Departments, where if they would have applied to those Government Departments directly for a job, General Orders would have prevented them from actually being selected for the job.

2735 Is this part – those examples and what he has just told me – of a change of Government policy in relation to the applicability of General Orders to people with criminal convictions in respect of entry into the public service?

2740 **Hon. J J Bossano:** Mr Speaker, this is not General Orders; this is throughout the public service. General Orders apply to civil servants, not to public servants. There is a distinction.

Hon. D A Feetham: General Orders and for example, in relation to the GDC, GDC General Terms and Conditions.

2745 **Hon. J J Bossano:** Well, yes, but look, it is... The previous Government chose to apply some things of the Civil Service to some people who are not civil servants, and not others. Therefore, when everybody in the GDC was made to comply with the pay and conditions of the Civil Service, there might have been legitimacy in applying General Orders to them, but not before. But in any event, I can assure him that there are people in the GDC who were made civil servants who would never have got through with that requirement in General Orders. That was done on 1st October by the previous administration.

2750 So whether the GDC had General Orders applied to them or not is highly questionable, because I can assure him that this is not what happened on 1st October.

2755 The point that I am making is that, in my experience, as Minister for Employment whose job it is to get as many people working as possible, I think that the interpretation that is being given to conviction is that it may be simply 'blowing a gasket' – to use the hon. Member's favourite phrase – or committing mass murder. There seem to be no criteria that are introduced to relate the severity of the alleged misconduct to the relevance to the work that is being done and the places that are sensitive.

For example, if you have got a situation where there are people with drug convictions, and it has been

2760 standard policy that you do not put them to work in a place where they have access to drugs. Quite apart from anything else, it is because you may be making life more difficult for them in putting temptation in their path.

2765 So what I am saying is that, as Minister for Labour, I feel, from recent experience, that there needs to be, if you like, a more intelligent and commonsense application of what is considered to be something that debars people from working in the public sector, in relation to the seriousness of the alleged offence that they have committed and the sensitivity of the place where they are going to work. It is not a matter on which we have taken a policy decision or introduced anything; it is just something that, frankly, it occurred to me as an issue in the context of helping people who come out of prison.

Hon. D A Feetham: I understand, and I apologise, but this is an important point.

2770 I understand and I said, I recognise, these are difficult decisions. There may well be, taking your example of a cleaner, somebody who has committed... has been cautioned in the past for a very minor drugs offence, and that should have absolutely no impact on his or her application in relation to a job as a cleaner.

2775 But, of course, it is always a question of fact and degree. You have said, there has to be an intelligent application. Whose intelligence are we talking about? Is it *your* intelligence? Because in the absence of proper policy underpinning and a proper analysis of how you treat these cases, then obviously it is *your* judgement as a Government Minister that is going to prevail in relation to these cases – hence my question about Government policy. Because otherwise, of course, you are going to receive criticism from this side of the House, in the absence of proper criteria and, quite clearly, when we have General Orders and they are there in order to maintain standards within the Civil Service.

2780 There may be cases that are really... Deserving cases, that unfortunately, are on one side of that line that one draws, but one could say, ‘Well, it should be on the other line’, but at least they set a standard. Unless one has a situation where, effectively, without a policy, *you* are going to be dealing with it, *you* are going to be taking these decisions – it is *your* intelligence that we are talking about – I would have thought that this is something that the Government surely must have a policy, perhaps in terms of a review of General Orders and including a different clause within General Orders or sending out a policy document or instruction to Human Resources after having reconsidered General Orders. I do not know. Or is it just simply going to be you?

Hon. J J Bossano: Well, Mr Speaker, the hon. Member opposite is wrong in thinking it is just going to be me, and I have not said it is just going to be me.

2790 What I have said, in answer to the previous supplementary question, was that in my view, the way that this law or system applies is that the Police are asked, ‘Has anybody committed an offence?’ and the answer is yes or no, and that is the end of the story. Therefore people are either put on one side or the other, and the offence can be anything from the insignificant to the serial killer and that in my judgement, we need to have a system that is refined so as to select criteria that determine what is serious and what is not serious and how relevant it is to the job in question. That is a position that I have volunteered that information in the context of a supplementary.

2795 Clearly, I have made a mistake and I must remind myself not to volunteer information that I am not asked!

Hon. D A Feetham: But you still have not answered the question!

2800 **Hon. J J Bossano:** Look, the question –

Hon. D A Feetham: Let me tell you about the Police –

2805 **Hon. J J Bossano:** Mr Speaker, I *have* answered the question.

Mr Speaker: The Minister did say that there should be a system, so I think he addresses the point the hon. Member is making. He is not talking about himself choosing; he says there should be a system. I think that answers the question.

2810 **Hon. J J Bossano:** Mr Speaker, there is a system in place. The system has not changed. I made the mistake of volunteering my own concerns about the system.

Now, the concerns about the system, the hon. Member is now trying to convert into a repetition of yesterday’s analysis that now the new Government is going to be putting their family, their party members

2815 and the convicts in the public service. Is that where he wants to get to?

Mr Speaker: No, I do not think –

2820 **Hon. D A Feetham:** The hon. Gentleman is really getting very, very paranoid in his advanced years, I have to say! (*Interjections*)

Mr Speaker: Order, order! (*Interjections*) I do not think the hon. Member should harp on about another Member's age or whatever it is.

2825 **A Member:** It is an insult.

A Member: Absolutely.

2830 **Hon. D A Feetham:** He has talked about the system that is in place. (*Interjection by Hon. J J Bossano: Yes.*) He has said it is not a perfect system, there are inadequacies in the system. I have personally said to him, I understand what those inadequacies are, there are difficult issues. In fact, when I was Minister, I spoke... I think I am right in saying that a new system was put into place because I did not feel it was right for the Police to be handing out this kind of information to any Government Department that asked for it and that it had produced some unjust situations.

2835 I remember there was a particular individual in the NHS, for example, who had been offered a job, and then the offer had been withdrawn on the basis of information that the Police had provided. One could have said, in relation to that particular case, well, actually the caution that was provided when that boy was young had no correlation with the job.

2840 I understand there are difficulties but, of course, if there are difficulties with a system – and this has all arisen out of you saying that is something we have got to look at – if there is difficulty in the system, then I suppose he is thinking of replacing it with a different system. I am asking, what is your thinking in relation to that system?

2845 **Hon. J J Bossano:** Mr Speaker, the answer to the last question is that it is my view that the system needs to be looked at.

Nothing is being looked at at the moment. There is no policy decision. If a decision is taken, when it is taken, it will be made public.

2850 **Procedural**

Mr Speaker: The Hon. the Deputy Chief Minister.

2855 **Deputy Chief Minister (Hon. Dr. J J Garcia):** Mr Speaker, I move that this House do now adjourn to three o'clock.

Mr Speaker: Is that convenient to all the hon. Members?

2860 *It was agreed.*

Mr Speaker: This House will adjourn until 3.00 p.m. this afternoon.

The House adjourned at 1.16 p.m. and resumed its sitting at 3.00 p.m.



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.00 p.m. – 7.48 p.m.

Gibraltar, Thursday, 20th September 2012

The Gibraltar Parliament

The Parliament met at 3.00 p.m.

[MR SPEAKER: Hon. H K Budhrani QC *in the Chair*]

[CLERK TO THE PARLIAMENT: M L Farrell Esq RD *in attendance*]

Questions for Oral Answer

CHIEF MINISTER

Hilton Hotel Progress of development

Clerk: Answers to Questions continue.
Question 701, the Hon. D J Bossino.

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Hon. D J Bossino: The Question was submitted, Mr Speaker, addressed to the Minister for Tourism etc, but I understand it is going to be answered by the Chief Minister. So I will just amend that slightly.

Can the Chief Minister advise what progress has been made, if any, in connection with the development of the Hilton Hotel?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the Government continues in discussion with the investment group that has proposed a project that includes the potential establishment of a Hilton Hotel.

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**Tobacco smuggling
Government proposals to stamp out**

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Clerk: Question 811, the Hon. D A Feetham.

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Hon. D A Feetham: Can the Chief Minister state whether the only steps the Government proposes to take to make good on its recent public commitment to stamp out tobacco smuggling are limited to measures set out in the communiqué making that commitment?

Clerk: Answer, the Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, the Government is taking considerable steps to stop illicit tobacco smuggling. One of the principal measures taken has been the bolstering of the frontier fence, which has been allowed to fall into disrepair to the extent that people were able to access Gibraltar without having to pass through the established entry points.

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Other measures discussed with tenants associations of the housing estates most affected, Laguna and Glacis, include CCTV, potentially controlling vehicular access to estates and other measures. All policing matters are, however, a matter exclusively for the RGP.

Customs is also drawing up plans to control illicit tobacco smuggling, but Government is not involved in planning any such operations, of course.

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The Government feels very strongly that the anti-social behaviour in the residential estates must be curtailed, as it is self-evidently affecting the quality of life of people who live in those estates.

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Hon. D A Feetham: Yes, I am very grateful to the Chief Minister for that answer and of course it recognises what was going to be part of my supplementaries, that when one analyses the question of tobacco smuggling, with that we are not just simply dealing with smuggling of tobacco, either through the frontier fence or alternatively at sea, which happened to be the subject matter of the communiqué of 29th August, but that there is also an element that part and parcel of tobacco smuggling are the preparatory steps that are actually taken, at considerable nuisance to people that live in those areas, for example, Laguna Estate and also Glacis.

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Does he rule out as well – in relation to taking these measures, that perhaps confining the sale of tobacco to particular areas in Gibraltar or at the very least taking out of the legality of where they are sold – residential estates? Because as he quite rightly recognised in his address to the Laguna and Glacis Estates, some of these shops, which were general convenience shops within those estates to start off with are now becoming tobacco supermarkets and are selling mainly tobacco products. Of course, it is causing huge amounts of nuisance to people in the area because of what it attracts.

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Hon. Chief Minister: Mr Speaker, I rule absolutely nothing out and I do not want to be committed to anything, but I am working with those who may require the Government to be involved in some aspect of the operations in which they plan, to ensure that the Government's demeanor to this is always seen to try and control what is happening in those estates. That may include, Mr Speaker – I am happy to share with the House – the designation of certain parts of the estates as special zones, under the Tobacco Act, something which I am pursuing directly.

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There is only really one issue of dispute between what the hon. Gentleman has said and what I am going to reply, and it is this: that the hon. Gentleman said that those areas are *becoming* a problem. Mr Speaker, I hope that we can agree, because empirically it is so, that these areas *were* and *are* a problem. None of the tobacco licences which are operating in those estates were granted by this administration.

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I am sure that when tobacco licences were granted for those estates, nobody envisaged that they would be used for those purposes, but on 9th December, the moment from which we are responsible, this problem already existed and we are trying to deal with it as best as possible and as quickly as possible, because it is a real problem that we have inherited for the people who live in those estates.

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The anti-social behaviour aspects of this, in places like Laguna and Glacis, are becoming so overwhelming that they have to be dealt with, because, since before the Election and after, there are remarks about children being exposed to people who are in states of undress, etc, blocks being used for these purposes and this Government certainly is not going to tolerate that. That was the position before 8th December; it is the position after 9th December. We are the ones in administration, we are the ones who have to deal with it and that is why I am telling the hon. Gentleman, I am ruling nothing out and I am already looking, with those who are responsible under the Tobacco Act, to the possibility of declaring special zones in different areas.

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Hon. D A Feetham: The hon. Gentleman has said there is nothing in the semantics of it. I accept that this was becoming and was problematical prior to 9th December. I accept that and, in fact, I think that in

85 exchanges between the then Chief Minister and the now Chief Minister, when he asked questions about this in Parliament at the time, I think the now Leader of the Opposition, then Chief Minister, actually said that the Government was considering the possibility of introducing exclusion zones in these particular areas, because it was becoming a problem. As time goes by, I genuinely do believe that it is becoming a greater problem.

Just so that I understand these exclusion clauses, is what the Government is looking at is actually excluding the sale of tobacco wholesale in these estates, or some other limited form of exclusion?

90 **Hon. Chief Minister:** Can I just ask the Member to clarify whether he means, by the word 'wholesale', wholly or wholesale? (**Hon. D A Feetham:** Wholly.) Right, okay. I do not think there any wholesalers of tobacco in those areas which are causing a problem.

95 Mr Speaker, the Tobacco Act provides for the declaration of special zones, which give law enforcement officials greater powers in respect of those zones. The hon. Gentleman will know that, in the past three months, I have declared areas in and around the Airport special zones, so that Customs officers and RGP officers can ask people to move on or can search people in those areas, if they suspect that offences contrary to the Tobacco Act are being committed.

100 These are the zones that I am considering also declaring in Laguna and Glacis, which are the only ones that, in law at the moment, I would have the power under the Tobacco Act to declare. That is why it would have to be the Government involved and not the RGP or Customs who would be planning these things. This is actually a power, I think, in the Chief Minister or the Minister with responsibility for Customs, which happens to be the Chief Minister now and was previously the Chief Minister as well.

105 Mr Speaker, it is not possible, in our analysis, to take away from people a licence that they already have, so it is therefore not possible, in our view, to prevent people who are already engaged in this trade, simply by operation of law, whether in the public interest or otherwise, from continuing to trade from one day to the other. A case would have to be made, for something as draconian as the withdrawal of a licence, simply because of the area where trade is occurring, absent an offence committed by the licence holder, or a breach of the licence committed by the licence holder.

110 But there are many different possibilities here. For example, Mr Speaker, it is possible to see these licence holders being enticed to go elsewhere – (a); or (b) it is possible to see a situation where it is more attractive, for people who wish to come to buy tobacco in Gibraltar legally, to buy somewhere else. All of those things have to be looked at in combination. The Government can rule nothing out, as I told the hon. Gentleman, but a licence gives certain people a right – it is an acquired right – and we would not want to see ourselves in a situation of pulling licences. We very much hope that, with the co-operation of licence holders, of tenants in the estates, of the law enforcement officials involved and the instruments that we have available to us already in the legislation, it may be possible to deal with this issue. If it is not, then we will have to look at other potential ways of dealing with this matter.

115 But I would like the position to be known clearly, that what is going on in the estates is just unacceptable to the Government. It was unacceptable to us as an Opposition; it is unacceptable to us as a Government. This is not an issue where one can act overnight; one has to act properly. We have started already in dealing with the issues at the frontier and we are already dealing with the issues in the estates.

120 The issue of CCTV that I also talked about in the estates and the control of vehicular access to the estates, etc: all of that can contribute to controlling this activity and it is fundamentally important that we get it right when we do it, so that the activity is controlled and those who wish to buy tobacco legally in Gibraltar are able to do so in other places.

130 **Procedural
Question 812 withdrawn**

Clerk: Question 812, the Hon. D A Feetham.

Mr Speaker: I think that was dealt with yesterday.

135 **Hon. D A Feetham:** Yes, this was dealt with, either this morning or yesterday.

Mr Speaker: Yesterday.

140 **Chief Minister (Hon. F R Picardo):** Is it withdrawn or...? I am happy to give an answer –

Mr Speaker: Well, I think the matter was –

Hon. D A Feetham: It was answered by the Deputy Chief Minister.

145 **Hon. Chief Minister:** But for Hansard, do you want to ask it and I'll stand up or do you want to...

Clerk: Yes. Yes.

150 **Hon. D A Feetham:** No, no, it was withdrawn – it was answered yesterday anyway.

Mr Speaker: We will treat it as withdrawn, I think.

155 **Glacis and Laguna Estates**
Construction of additional floors in blocks

Clerk: Question 813, the Hon. D A Feetham.

160 **Hon. D A Feetham:** Can the Chief Minister state what consultation of local residents took place before the Government announced it was constructing an additional floor on some of the blocks at Glacis and Laguna Estates?

165 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer this Question together with Questions 814 and 815 of 2012.

170 **Moorish Castle, Glacis and Laguna Estates**
Cost of proposed cladding works

175 **Clerk:** Question 814.

Hon. D A Feetham: Can the Chief Minister state what is the estimated cost of the proposed cladding works at Moorish Castle, Glacis and Laguna Estates, now that the Government has confirmed to residents it will not be going ahead with the construction of extra floors?

180 **Clerk:** Question 815.

Hon. D A Feetham: Question 815 was in fact answered by the Deputy Chief Minister, so it is withdrawn.

185 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I can confirm that the proposal to construct these additional floors was put to the Development and Planning Commission as the start of the public consultation process. I also held meetings with the Tenants' Association of each of these estates and subsequently held public meetings with tenants of these estates.

The final design of the proposed cladding works at Laguna, Glacis and Moorish Castle Estates has not yet been finalised. Different types of cladding are being considered in consultation with the Tenants' Association and technical advisers.

195 Mr Speaker, I would have said, both in relation to Question 813 and Question 815, but I now say in relation to Question 813, that as the hon. Members will now know, the Development and Planning Commission is now an open forum so that all members of the community can provide feedback on the projects which are put before it. The Government will balance all the competing interests in deciding how to proceed in respect of any housing project.

200 **Hon. D A Feetham:** Can he tell us at least this – just focusing on Question 814 for the moment as to the cost – does he know what the cost was of actually building, or the proposed cost of the proposed building of extra floors on these estates?

205 **Hon. Chief Minister:** Mr Speaker, I think I know to the penny what it was that it was estimated that they would cost, but I do not have that detail with me. If he wants me to write to him and tell him what it would have been, if he sends me a note, I will ensure it is replied to with that detail.

Hon. D A Feetham: Yes, please. Thank you very much.
210 In relation to Question 813, does he know what the cost of preparing these proposals were in the first place, the producing of the plans and everything associated with the actual construction of the extra floors?

215 **Hon. Chief Minister:** Mr Speaker, it will be very closely intertwined to the planning for adding a lift and for adding certain types of cladding etc. So I do not know whether it is possible to divide the cost of what is going to go ahead from what is not going to go ahead; but, of course, he will know that it is not unusual to change plans. Changing plans in this particular respect is not, in my view, going to cost too much because he will know from the time that his party was in Government that when you *add* a lift, you tend to add, in effect, a floor and a pitched roof. So what is going to happen is that the internal layout of that extra floor is not going to be turned into flats.

220 **Hon. D A Feetham:** Because he had a cost or... if he doesn't, I am not going to press him, but does he have a cost of the actual plans for this particular project – how much it actually cost the Government to produce these plans to get it to the position of when it was announced to the public?

225 **Hon. Chief Minister:** I am sure, Mr Speaker, that there must be a cost or a cost can be given, but I do not have it with me. But the cost of what is going to go ahead is very likely to be very close to the cost of planning what is not going to go ahead because *externally* it is going to look exactly the same.

Hon. D A Feetham: I doubt that is going to be the case, but... (*Interjection*)
230 Mr Speaker, did you, for example, or did the Government, for example, conduct any kind of survey or any kind of analysis of the *impact* of constructing these floors on parking, for example, for residents before they announced the project?

235 **Hon. Chief Minister:** Parking, for example, but many other things too. All of this was considered in the planning stage and that is why it was an issue that had to be taken to the DPC for guidance and consultation, as we do with all of the Government projects.

240 But the hon. Gentleman will be a Doubting Thomas on everything that I tell him. He can rest assured (*Interjection*) that the cost of the plans, or perhaps that element of the planning which may now require a change, will be much less than the cost of the changes to the airport from £24 million when it was originally announced to £80 million when it was delivered. Or the costs thrown away in respect of the planning for the new Theatre Royal at the Old Theatre Royal site.

245 What is clear to us, Mr Speaker, is that this was a project that it was important to talk to the people in the estates about, and that is why I went out to the estates, that is why I saw the Tenants' Associations and that is why it went to the DPC. The hon. Gentleman may think that that is not sufficient consultation. I dare say it is more consultation than has ever gone on before.

Hon. D A Feetham: He is anticipating the points that I am going to make. I have not even got to those points and I had moved on from the point about the cost of the plan.

250 No, what I am asking the hon. Gentleman – and indeed, one can extend it to other areas – is did he or did he not conduct, or he did his Government, did the Government, or did it not, conduct any kind of survey on the *impact* of building these additional floors of parking, for example, on the potential need to relocate individuals living in the top floors of these estates, and on the potential for nuisance for those living in these estates, before it announced the project? Did it undertake that kind of survey?

255 **Hon. Chief Minister:** Mr Speaker, it depends what one means by 'survey'. Is this something to which attention was turned? Of course it was. I told him, in my first words when I got up to reply to him, 'parking, for example'. Of course these things were considered, and it was considered, how could people on top floors be moved away? How could *extra* parking be added? Would it be sufficient parking? Could the area, for example, at the entrance below Tankerville be used for additional parking for Moorish Castle Estate and would that be sufficient? Could the multi-story car park in the area of Devil's Tower Road take more parking from Laguna Estate if there were to be more flats in Laguna Estate?
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Of course these things were considered. The officials who are working for the Government today are the same officials who were working for the Government before and they considered these things and presented the Government with their views in respect of them.

265 Did we carry out a survey in terms of *questioning* the people living in the estates about it? No, Mr Speaker. That is what the consultation process was about – the consultation process which went about later. I think it is perfectly normal to do things in that way which we consider to be appropriate.

270 **Hon. D A Feetham:** But doesn't the Chief Minister think that in relation to a project of this kind where one is not dealing with the building of something on a flat piece of ground where there are residents around, and you are always going to have those kinds of issues in Gibraltar... You are always going to have issues in terms of, for example, *balancing* housing needs of people with the quality of life and rights to light, rights to view – although there is no right to view – but those kinds of issues in the context of a small community like Gibraltar are always going to arise.

275 But is it not the case that this is different, because here you were proposing to, effectively, add another floor onto an existing estate, impacting very, very directly on the people living in that estate? Does it not really show a lack of thought and planning on the part of the Government of, effectively, making that announcement without actually bothering really to do in-depth studies and at the same time *consult* the residents as to whether this was a good idea beforehand or it was not a good idea, and whether it was supported by residents or it was not supported, given that they were going to be impacted very, very directly by this particular project?

280 **Hon. Chief Minister:** Mr Speaker, we just cannot get it right, can we? If we do a traffic survey, but we do not say what we think the results of that survey should be when we put it out to the public, we are told that we do not know what we are going on about and that we just want the public to write it for us and that that is not leadership. If we say, 'Look, these are the plans that we think work', when we go out to consultation for the public, we are told, 'Oh, you determined all of this before you started the consultation.'

285 Mr Speaker, I know that the hon. Members are here to do the political job that the Westminster system requires them to do, which is to hit us so that they can try and come over here – that is the adversarial system – but they have got to make up their minds. Either the leadership of Mr Bossino prevails, which is the one that says when you go out to a consultation process, you need to know where you are going, because you are there to lead Government; or the leadership of Mr Feetham prevails, which is you must consult on *everything* before you go out to present your plans for consultation. In other words, I have to knock on every door in Laguna Estate, Moorish Castle Estate and Glacis Estate and carry out a survey before I am able to take plans to the DPC for guidance and consultation with the general neighbourhood Tenants' Association and go out to a meeting with them.

290 We have done it the way that we have done it. We think it is the most appropriate way to do it. But let me ask him this: although it was not adding an extra floor, but it was *much more* inconvenient than that, what public survey – I say rhetorically, as I know he is not here to answer questions – did the previous administration do in Rosia Dale, in Cumberland, in Vineyards, before they built the cell block that is Cumberland Terrace's today, creating, in effect, a tunnel where Cumberland Road is? When they built Nelson's View *destroying* the water tanks that had victualled *Victory* and many other ships, what public survey was carried out there? **(A Member: Hear, hear.)**

295 What happened there was that they had created, Mr Speaker, such a housing problem in Gibraltar that at the last minute, in the final term and a half, they had to do everything possible to create housing – and one is tempted to say 'bugger', but one can't – but 'there goes public opinion' and 'there goes the survey', and 'let us just build as high as we can, as square as we can and as ugly as we can', and 'who cares about parking', because it is all very well to have one allocated parking per flat? Who cares about parking when most people have two cars per flat? So who cares about the density in those areas? Who cares about the right to the view, that we all recognise does not exist? Who cares, even, about the rights to light that *do* exist and have stopped some of those projects?

300 Mr Speaker, they have got their model of survey and consultation, which we think does not work. We have got our model of consultation, which we think not only works, but has been *seen* to work in this process and in particular in respect of these estates. We are judged by the electorate every four years, each team, on whether ours works or it does not. Theirs obviously appears not to have worked at the last Election, and ours, I understand, is by 237 votes that the hon. Gentleman calculates prevailed.

305 **Hon. D A Feetham:** Mr Speaker, the hon. Gentleman really has a habit of not answering the question. The reality is that they announced, under a great, great fanfare, the construction of these extra floors, going to the extent of saying, 'These are the forgotten estates', and it is them that actually forget to consult the people *there* who are most directly affected! Really, it must be the most unfortunate choice of words, this *phrase* that must have been coined by the Chief Minister himself, 'the forgotten estate', when they themselves actually forgot to conduct the most rudimentary consultation –

310 **A Member:** There is no question there.

Mr Speaker: I am hoping there is one at the end.

Hon. D A Feetham: – the most rudimentary consultation with residents of the area.

330 Does the hon. Member know this, for example, does he know how many extra parking spaces would have been *needed* in order to cater for all those extra flats that were going to be constructed on the top floors of those estates?

335 **Hon. Chief Minister:** Mr Speaker, these ‘forgotten estates’ are rightly described in that way because they were forgotten for the time that the hon. Members were in Government. That is why it is absolutely *appropriate* to call them ‘the forgotten estates’. That is why the fanfare is there, for the refurbishment plans that are at last going to be enacted by this administration for the people in those forgotten estates – estates, Mr Speaker, forgotten – I dare say, in reminding the hon. Gentleman of his immediately previous question – forgotten even in respect of the very serious anti-social behaviour that was occurring there in respect of the tobacco matters that we have just debated.

340 I assume that he also coined the phrase ‘the forgotten estates they forgot to consult’, because it is all about that, isn’t it, Mr Speaker? It is all about catch phrases – even adopting ones that others have already coined before, like ‘U-turn this’ and ‘U-turn that’. Politics is not about catchphrases, Mr Speaker; it is about the opportunity to make people lives better (**A Member:** Hear, hear.) and that is what this Government is going to do in those forgotten estates, make their lives better. (*Applause*)

345 I would tell him, Mr Speaker, in respect of the number of parking spaces, it would have been estimated at least that we should be able to have one extra parking space per flat and provision was being made on that basis. The whole issue was this: can you by adding one parking space per flat create such a scheme that will satisfy the parking needs of the area? And in some areas you could not (**A Member:** *Exactly.*) because in Glacis, there is already not one parking space per flat. In Laguna, there is not one parking space per flat. So if you plan to add something and you plan to add one parking space per flat, you are still, nonetheless, compounding the problem that was there. This was the issue to go out to consultation on and these are the things that we talked about with the Tenants’ Associations and with the people who live in the estates. That is the feedback we have got and this is not just, Mr Speaker, an issue about parking spaces; it is about many other issues.

355 The one thing, Mr Speaker, that I hope he is not trying to get away from is that these estates were forgotten by the previous administration. They were totally abandoned. Mr Speaker, some people say to us that they felt at least abandoned, because they were traditionally seen as not providing the hot bed of support for the hon. Member’s party. Well, Mr Speaker, I will give them the benefit of the doubt and I will believe that is not why they forgot them. They just forgot them, Mr Speaker. We will ensure that they are never forgotten again. (*Applause*)

Hon. D A Feetham: What a load of waffle, I have to say!

365 Mr Speaker, does he not recognise that the previous administration did a great deal for some of these estates. In Laguna Estate alone, there was considerable beautification of the estate. The sheds were built across the estate, although I am told that, in fact, in relation to the sheds, the hon. Gentleman’s Government has actually put a stop to that work. In Glacis Estate: pitched roofs were put into Glacis Estate, the lifts were also renewed in Glacis Estate.

370 The problem with the hon. Gentleman is that he may make a better point by overextending the point that he makes. This is the problem with these catchphrases. (*Interjection*) *He* is the one that makes the... *He* is the one that overextends himself. *He* is the one that makes the mistake by calling them forgotten estates.

375 He may have a valid criticism in saying, ‘Well, perhaps you should have done this and you didn’t do it’ – look, maybe. No Government actually does everything and no Government is beyond criticism and I, as the person here who is asking the question, if he has a valid criticism, I will accept it; but not that they were the forgotten estates.

380 On the basis, the hon. Gentleman says that they will not be forgotten, why was this commitment – which happens to be a flagship commitment during the first year of his Government – why was it not in their manifesto? It was certainly in ours, the question of the cladding, for example. Is this something that has occurred to the hon. Gentleman during the course of the first few months of his Government?

Hon. Chief Minister: Mr Speaker, I refer the hon. Gentleman to page 47 of the GSLP Liberal Manifesto which reads as follows:

385 ‘We will complete the programme of refurbishment, beautification and lift installation on existing Government estates where this has not already been finalised.’

If he reads further down Mr Speaker, on page 47, in the paragraph headed 'Refurbishment and Beautification':

390 'This will include re-cladding buildings in Glacis, Laguna and Moorish Castle Estates, as well as adding lifts if possible.'

Mr Speaker there is a splendid shot of what the re-cladding is likely to look like which takes up a lot of our manifesto, so I think, Mr Speaker, that he has forgotten what was in our manifesto, if he prefaces, or if he ends his presentation with that question.

395 Mr Speaker, it is clear that this question of the forgotten estates has done damage. It hurts, I can see, because whenever they come back at me and say that I am waffling, this is, as we analysed you in the course of the debate on the Appropriation Bill, that sort of attack is the best form of defence in the sort of leadership that Mr Feetham is likely to represent for the GSD.

400 Well look, Mr Speaker, if it hurts, I am going to say it over and over again: Laguna, Glacis and Moorish Castle Estates, the forgotten estates, the estates that were abandoned; Landport House unpainted for something like 40 or 50 years, Mr Speaker – (*Interjection by Hon. D A Feetham*) the only one that remains unpainted.

405 Look, Mr Speaker, if the hon. Gentlemen and Lady want to say to us that they did not forget Glacis and Laguna, that they built them sheds – well, Mr Speaker I think people want a lot more than sheds in life. A shed may be important, but people want a lot more than sheds in life. I do not recognise this idea that any shed programme has been stopped. What I will tell the hon. Gentleman, Mr Speaker, is that what is going to happen in those estates is designed for a purpose. It is designed to make the lives of the people who live in those forgotten estates better. It is designed to show those people that they are not forgotten as they were before the 8th December. The forgotten estates are forgotten no more and if the hon. Gentleman forgets to read our manifesto again, I forgive him. I know it is such a brilliant document, it hurts his eyes to read it.

415 **Hon. D A Feetham:** I have to say that there are so many promises in that manifesto, to so many people, so individually targeted that I am afraid that even I sometimes forget the promises that the hon. Gentleman opposite –

Hon. Chief Minister: Apology accepted.

420 **Hon. D A Feetham:** – had made.

But look is it not the case that it is not only about you forgetting to consult the very same people that you say are forgotten but that the Government did not in fact do its homework, because in answer to my questions, he has already said, 'Look, we were looking at it and it was a question of one parking space per flat that we were building and it just simply did not work out.' Well, that exercise did not require any consultation with anybody. That exercise was capable of having been done and that conclusion was capable of having been reached before the announcement was made. Is it not the case that the reality is that this was a half-baked, half-cooked idea that the hon. Gentleman or I don't know who in his Government came up with, which was ill conceived from the very beginning?

430 **Hon. Chief Minister:** Mr Speaker, 'do its homework', 'half-baked': once again, the politics of phraseology, ignoring how to deal with the substance of issues.

435 Mr Speaker, this was not half-baked. This was not a question of homework not being done. This was an exercise which the Government did and then took to the people who would be involved in it. I took it, Mr Speaker, to the Tenants' Associations and then to the tenants themselves. I am not running away from something, if I take it to that level of consultation. I am not running away from something, if I go to the heart of the area which is going to be affected and spend time with the people there, talking about this issue of how they feel about the parking, etc because ours, Mr Speaker, is not the policy of phraseology, it is not the politics of sound-bites; it is the politics of substance.

440 Mr Speaker, where is the difference? Very simple: we have an ambitious pledge in our manifesto. Our manifesto, of course it is ambitious and we are convinced that we can complete it in this term of office. Why? Because we are ambitious for Gibraltar. That ambitious promise is that everybody who was on the housing waiting list on 8th December will have a home before the next General Election.

445 Well, Mr Speaker, let us be clear: is that not what we should all be trying to achieve? Is that not what the aim should always have been? How is it, Mr Speaker, that we go from a housing waiting list of 200 people in 1996 to a housing waiting list – a *soul destroying* housing waiting list – of 1,500. Well, look, Mr Speaker, it must mean that their policies for 16 years were half baked, that their policies for 16 years were infected with an absence of homework. It must mean, Mr Speaker, that for 16 years they forgot not just Glacis, Laguna and Moorish Castle Estates, but the mounting number of people with real social and

personal problems who were putting their names on the housing waiting list and never likely to see the light of day.

450 Our policies, Mr Speaker, are not about being half-baked, although I will remind him that a soufflé is half-baked and it is one of the most expensive dishes on any menu. It is about ensuring that we house everybody who needs a home. That is why the Hon. the Deputy Chief Minister has said this morning and I repeat this afternoon, we have to marry the competing interests of those who need homes and those who will need to suffer some disruption whilst homes are built around them.

455 Mr Speaker, in this instance, we think we did a fine job to take this particular issue to the people who it would have affected the most. I think that is exactly the sort of way to run Government. It is a pity he does not share my view. He might have found himself on this side of the House again, if he did.

460 **Hon. D A Feetham:** Whether I or anybody on this side of the House will find ourselves on that side of the House is not up to him and it is not up to me. It is up to the people of Gibraltar in a democratic election.

465 But look, he keeps on harking back. Yesterday he made a point about the Hon. the Leader of the Opposition not giving credit where credit is due for things that were achieved during the GSLP Government. Today he is actually doing exactly the same thing in relation to housing and in relation to the achievements on housing of the GSD Government. Or does he not recognise – and I am asking him a question – the fact that it was this party that constructed the first Government rental housing estate in Mid Harbours that has nothing to envy at all any private estate, anywhere in Gibraltar, the first Government housing rental estate since Varyl Begg in the 1970s – not the AACR Government, not the GSLP Government – *since the early 1970s*. I think it was an IWPB Government. Does he not recognise that the GSD Government built hundreds of homes for the elderly at Bishop Canilla and other areas?

470 Does he not *also* recognise that, whatever the controversy may have been initially in terms of the location of Nelson's View, of Bay View and other estates on co-ownership that the Government built, Waterport Terraces, that these have provided homes for many ordinary working class Gibraltarians? Does he not recognise that? Is he not prepared to concede that it is never a question in politics of simply saying, 'No, you did absolutely nothing'? It is a question of actually recognising what your opponents have done, criticising what is wrong, recognising what they have done and not just simply stand up and make these wide-netted criticisms which really does your side of the House and the entire Parliament no credit at all.

480 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Where has he been for the last 15 years? (*laughter*)

Hon. Chief Minister: Well, Mr Speaker, (*Interjections*) look, let me take each one of those points in turn.

485 Of course, the next election will be a democratic election where people will decide between this party and our coalition together as GSLP Liberals, and whoever is then in Opposition. I do not know whether the fault-lines in the party opposite will mean that it survives and fights the next election or not, but so be it. (*Interjection by Hon. D A Feetham*) It will be a democratic election and I will tell you why, Mr Speaker: because the Government will not be spending £150,000 on a rag to promote its policies. There will be a level playing field and it will be a democratic election – point one.

490 Do I recognise that they built the Mid Harbour Estate? Well, Mr Speaker, in all the time that he and I have known each other, we have debated with each other across the floor of the House or elsewhere, I have never suggested to him that he is stupid. I would be grateful if he did not suggest that about me. Of course, I recognise that, because it was built in the time that they were in Government and the Hon. the then Chief Minister used to go down to the building site in his work boots as Clerk of Works, they built the Mid Harbour Estate. Of course I do. Of course I know that the Waterport Terraces and Bishop Canilla were built on their watch.

500 And yet Mr Speaker, does he not recognise that there are still 1,500 people on the housing waiting list, because if he looks back to what I said – and I really think that I need to persuade the Hon. the Deputy Chief Minister to provide us not just with the excellent service that the House is now providing in *Hansard* which we get so quickly compared to what we used to get before, but we need to have voice recognition and immediate *Hansard*, so that the hon. Members can go back quickly and see what it is that we have said and not debate the ghost of the shadows of what they would rather we had said.

505 I did not say they had done nothing. I said that there were 1,500 people on the waiting list, that the list had got longer, rather than shorter. That is exactly what I said. And for that, Mr Speaker, by attacking me as he has, he has recognised that that is actually the case.

Or is it that he believes that we have manufactured the extent of the housing waiting list? I will tell him, he can go back and look at the answers of the then Minister for Housing, the Hon. Fabian Vinet, much missed in this House as he is, used to give the data. It is easy to plot from where one was in 1996, after the Election, to where Gibraltar ended up after they had been 16 years in Government.

510 Mr Speaker, the hon. Gentleman talks about making announcements in great pomp and circumstance and fanfare, and then having to withdraw. Well, I can think of a number, in the 16 years that they were in Government, not least the many uses to which Lathbury Barracks was going to be used and the many times that great projects were announced for there.

515 But I will remind him only of this, Mr Speaker (*Interjection*): before the 2007 General Election, a great project was announced, with great fanfare, of 700 homes at what became the Mid Harbour Estate in the area of *Rooke*. Mr Speaker, as he knows, we have raised no complaint in respect of the Mid Harbour Estate, other than whilst in Opposition, the Hon. Mr Bruzon attended on a number of occasions issues to do with cleaning, etc, which I am sure were concerns shared across the floor of the House.

520 But what I will tell him is, Mr Speaker, in case he does not know, was that that estate was only for 400 flats. So where was the homework, Mr Speaker? How could they announce an estate of 700 apartments, and yet, shortly thereafter, send out, in time for the Election, 400 letters allocating flats? How could they announce 700 flats, Mr Speaker, and yet build only 400 on the same footprint?

Well, Mr Speaker, ours is not the politics of phraseology, but if anything is half-baked, Mr Speaker, it must be the announcement that there were going to be 700 flats in the area of *Rooke*.

525 Look, the 400 people who got homes are very happy, Mr Speaker. Of the 1,500 who are on the housing waiting list, perhaps 300 also thought that their time had come and it did not.

I am also reminded Mr Speaker, and I should tell the House, that before the announcement of the building of the extra floors above Laguna, Glacis and Moorish Castle Estates, the Hon. the Minister for Housing had met with the Tenants' Association, just before this was announced, and said to them that he wanted them to go back and take the views of the tenants and that this announcement was going to be made so that we could have the input of the community generally.

530 Mr Speaker, in those circumstances, I think all of the comments that the hon. Gentleman makes can be seen to be an appeal to the grandeur and the importance of this House, only in an attempt to avoid the obvious criticism that must be levelled at them for having allowed in *16 years*, Mr Speaker... They did not have *one* term in office – for all we know, we may only have one term in office. They were privileged, Mr Speaker. They were privileged to have *four*, Mr Speaker, and in those four to allow the housing waiting list to go from 200 to 1,500, they know in their heart of hearts that that is one of the most monumental failures for which they are responsible, and I can understand why it is that they do not like to be reminded of it.

540 **Mr Speaker:** I have allowed considerable latitude away from the original Question on Glacis and Laguna and Moorish Castle Estates. We are now talking about general housing policy. There are Questions for the Minister for Housing later on in the Order Paper. I suggest we leave it at that.

545

Tripartite Agreement Instituto Cervantes

550 **Clerk:** Question 816, the Hon. D A Feetham.

Hon. D A Feetham: Does the Chief Minister still think that the best thing to come out of the Tripartite Agreement is the Instituto Cervantes?

555 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the hon. Gentleman will know what our position in respect of the Instituto Cervantes has been and is, namely that it should not be housed in a public building or given any advantage in respect of a Government tenancy.

560 I was very happy that this red line of ours was adhered to when the Gaggero family generously provided a part of one of their buildings for this purpose. Since then, I understand that the Instituto has been very successful in offering its courses.

565 **Hon. D A Feetham:** Yes, I do not want to get him into trouble with his erstwhile leader who is in close proximity to his left, but with respect, he has not answered my question. (*Interjection*) With respect, he has not answered my question.

Does he or does he not still think – as he indeed said in Madrid, earlier on this year – that the Instituto Cervantes was the best thing to come out of the Tripartite Forum?

570 **Hon. Chief Minister:** Mr Speaker, I do not recognise that quote.

575 **Hon. D A Feetham:** Well, Mr Speaker, I know that the hon. Gentleman has a version of events of what happens in his meetings with representatives from Spain, and then the Spanish press and those on the Spanish side that come out of that meeting have a quite different version altogether. We saw an example of Mr Masa coming out of the meeting with the hon. Gentleman saying that he had been promised that he could commence fishing on 16th August, and then we had a different version altogether emanating from the Chief Minister. But it was widely reported – Europa Press, amongst other places, indeed in the national press – that he had made these statements.

580 Is he saying that he cannot remember or is he saying that he did not make them?

Hon. Chief Minister: Mr Speaker, I know that he prefers to believe everything that anybody who is in dispute with the Government says, rather than what the Government may say (*Interjection*) – he would much rather believe a Spanish newspaper than the Chief Minister of Gibraltar.

585 If he wants to talk about what happened in respect of the statements made by Mr Masa, etc, he just needs to go back and look at what actually was said on the day, and look at the detail of it, rather than just try and take the flavour of it and assume that that is what is correct.

Europa Press is a news agency, he will know, Mr Speaker. If Europa Press gets something wrong, then all the reports that he sees in the newspapers thereafter will also be wrong because Europa Press is the source of the story.

590 I do not recognise that quote, Mr Speaker. If that is what was put in the story it must have been a misquote. I will tell him with sincerity, Mr Speaker, that he should be wary of the Spanish press, because very often it unconsciously misquotes things that are said, in my view. It may be that it sometimes *consciously* misquotes, but it sometimes, I believe, unconsciously misquotes things.

595 I have seen an interview that I gave in Seville last week, today, in a newspaper called *El Economista*, that includes several misquotes. They are not issues in respect of which one would necessarily want to take issue with the journalist. In fact, Mr Speaker, there is very little point, sometimes, taking issue with journalists on minor quotes, because all that is going to happen is that a corrigendum will appear in a printed version of a newspaper somewhere, and may not even be seen.

600 But in this respect, Mr Speaker, I can tell him honestly that I do not recognise that quote. He can decide whether he believes Europa Press or me, but that is not the sort of thing that would slip off my tongue.

Hon. D A Feetham: No, he says it and I accept it.

605 But let me ask the question: does he think that the Instituto Cervantes is a good thing or a bad thing?

Hon. Chief Minister: Mr Speaker, I am grateful for the hon. Gentleman accepting what I have said.

610 The Instituto Cervantes is in Gibraltar under agreements done by the administration that he represents. As far as we are concerned, the point we have consistently taken and we have been very clear about this is that the Instituto Cervantes – or A N Other entity, in particular a Spanish entity, given the political issues – should not be given, before others who have been waiting, some of them for years – associations, clubs, institutions – a public building from which to ply its trade. That was the position, under the Córdoba Agreement. We were very clear about what our red lines were, in respect of that agreement, and behold, the building that was used was not a public building.

615 Mr Speaker, there are many institutes in Gibraltar, many organisations. The Government does not express views about them. As far as we are concerned, this is an entity which is trading legally in Gibraltar and not in a public building, and if it were in a public building, we would have something to say about it.

620 I will tell him that I believe – and perhaps he has the same feedback – that it is trading successfully amongst those who do not have Spanish as a second language and avail themselves of the services provided there for that purpose. I do not think it should be a matter for me to provide an opinion in respect of any emanation of the Spanish state, other than those who take us on and require to be told what we think about them and in particular the Instituto that is here.

625
Religious minorities
Discrimination within job applicants

630 **Clerk:** Question 817, the Hon. D A Feetham.

Hon. D A Feetham: Can the Chief Minister state what steps the Government is taking to ensure citizens from religious minorities who cannot work either at certain times of the week or year are not discriminated against when applying for jobs in any part of the public sector?

635 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, this administration has asked the Chief Secretary to set out clear guidelines for all public bodies to address this important and sensitive issue.

640 **Hon. D A Feetham:** Well, I congratulate the Chief Minister. I think that is the right step. Certainly, when I was a Government Minister, I... and I cannot remember any other colleague of mine ever discussing this as having been an issue, but it certainly on two occasions now has come to my attention. It probably has come to the attention of the Chief Minister.

645 Has he had any input at all in those guidelines or is he just simply allowing the Chief Secretary to deal with this? Or has he set any kind of parameters for the Chief Secretary to come up with guidelines?

Hon. Chief Minister: Mr Speaker, I believe that the two occasions that have been brought to his attention have been brought to *my* attention. That has happened, I am very sorry to say, in the past 21 or 14 days. The Government has acted immediately, and the remit to the Chief Secretary from the Government is to say that this has never been an issue before, and it should never be an issue again.

650 Because when people have minority issues, they need to be accommodated as best as possible, because that is what our Constitution provides and that is what everyone in this House stands for.

655 **Gibtelecom and AquaGib
Pension issues**

Clerk: Question 818, the Hon. D A Feetham.

660 **Hon. D A Feetham:** Has the Government engaged with the Unions or the employees of Gibtelecom and AquaGib to address pension issues which the GSLP said during the election had been raised by those employees with them?

665 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, yes.

670 **Hon. D A Feetham:** Can he say whether that engagement is at an advanced stage, whether the Chief Minister is also confident of reaching agreement in relation to these issues?

Hon. Chief Minister: Mr Speaker, when you are dealing with issues like this, there are two concerns. There are issues of principle, and then there are financial issues.

675 What I have asked the Financial Secretary to do, with the individuals concerned and the companies concerned, is to first of all ascertain what are the financial implications of this, and then to meet with me to consider further the issues of principle.

I have met, I believe, on two occasions with the representative of the staff and the unions with the Financial Secretary. Calculations are ongoing. I believe that staff members have had, through their unions, legal assistance also, working on these issues to try and understand the financial implications and at the same time, we are going to consider the principle of what they have raised, to see whether it is possible to reach an accommodation, either in one particular way or another.

680 But those two issues need to be considered separately: principle and finances.

685 **Hon. D A Feetham:** I do not want to in any way jeopardise any negotiations that are taking place or talks that are taking place between his Government and the unions. Is there a reason why he should not provide, if I ask him now, what are the type of issues and principles that are engaged in relation to this, why he should not provide it across the floor of this House? Would he prefer that I write to him, so that he could write back to me in relation to that?

I am just concerned about the issues of principle.

690 **Hon. Chief Minister:** Mr Speaker, frankly, I do not think this is something to write about, but I am quite happy to have a conversation, if he can bear it, about the issue, if he likes, behind the Speaker's Chair.

695 **Hon. D A Feetham:** So he is not prepared to tell me what kind of issues of principle – (*Interjection*) No, no, I mean across the floor of the House. If there is a problem –

700 **Hon. Chief Minister:** Sorry, sorry, Mr Speaker, I misunderstood. I thought the hon. Gentleman had said that he assumed that I would not do that here, because we are negotiating about them, and would I write to him about it. What I have said is, this is a complex issue. It is much easier to have a conversation about it than it is to write down what the issues are – not because I am afraid to see it written down, but because I think where we are in the negotiations, it is worth talking about.

705 But I assume he was approached, and his party was approached before the election as well, and he will understand what the issues of principle are. They are not complex, but there may be some disagreement between the unions or at least, between the members of staff that the union represents and the Government, and perhaps even between the union and the Government and the members of staff. But those, I think, are not insurmountable. With good faith, we can try and get over them in some way.

The finances are another issue that we need to look at as well, to see whether it is possible to accommodate in some way.

710 I am confident that going forward it is going to be possible to square the circle – but as the hon. Gentleman knows, I am an optimist.

Hon. D A Feetham: Yes, sometimes he is too much of an optimist, but there is nothing wrong with that.

715 There is a duty... there is a duty... We are here to ask questions, you are here to answer them and answers are given for the benefit of *Hansard*. Forgive me if I did not make myself clear, but is there a reason why you ought not to tell me what those issues of principle are across this House? If he says, ‘Yes, I can’t because there are negotiations, it might prejudice negotiations’, or for whatever reason, I will accept that, he can tell me in the lobby of the House; but if there are not those kind of issues, will he tell us so that everybody else understands them, what those issues of principle are?

720 **Hon. Chief Minister:** Mr Speaker, I am ever so grateful that he is going to allow me to be an optimist. It is very kind of him.

725 Look, Mr Speaker, it is the reason that he prefaced his question twice, that we are in the middle of negotiations and I do not think it is sensible, for any of the parties, that this matter be ventilated across the floor of the House, otherwise I may as well conduct my negotiations with the union with them sitting where the mace is. That was never the case when the hon. Gentlemen were here on this side of the House. We believe ourselves to be open and transparent, but that does not mean that we can have a webcam in my office and people can just see everything that is going on, because that would not give business efficacy to the business of Government.

730 I am happy to give him the information, if he can bear a conversation with me behind the Speaker’s Chair.

735 **Hon. D A Feetham:** I accept that and I am not asking him for the nitty-gritty of all the details; neither was I asking him to bare openly within this House what those details are. It is the *points of principle* that concern me that may in fact have an impact across other sectors. I do not know whether they do or they do not, but that is what concerns me – the points of principle, not the detail.

Hon. Chief Minister: Mr Speaker, that is why they are points of principle, because they could have consequences across other sectors.

740 **Hon. D A Feetham:** Not necessarily.

745 **Hon. Chief Minister:** ‘They *could* have’ means that they do not necessarily have to. That is what ‘could’ means.

ENTERPRISE, TRAINING AND EMPLOYMENT

Ms Joanna Hernandez

Details of post with Employment Service

Clerk: Question 725, the Hon. J J Netto.

755 **Hon. J J Netto:** Mr Speaker, can the Minister for Employment and Social Security provide the following information in respect of Ms Joanna Hernandez: (a) in which month of this year she started work with the Employment Service; (b) the job title; (c) salary grade; (d) whether the position she is now

holding is a temporary or permanent one; (e) whether the position was advertised either through the GDC or externally so that anyone in Gibraltar could have applied for the vacancy; and (f) provide a copy of the job description.

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Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

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Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, the Government employee to whom the Question refers was unfairly dismissed by the Members opposite when they were in Government. (A Member: Hear, hear.) The Tribunal included in its findings the recommendation that she should be re-engaged within the Government service on the same grade and salary scale that she enjoyed as manager of the Dr Giraldi Home.

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This recommendation was implemented in July of this year. The title is that of manager. The employment is with an indefinite contract and she is seconded to the Employment Service as manager of the Supported Employment Company Limited. The role in that company is to co-ordinate the provision of supported employment and to advise those who are seeking such employment.

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Hon. J J Netto: Was this particular position a vacancy that was there available before the employment of Ms Joanna Hernandez within the Employment Service or was it a new extra employment opportunity within the Department?

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Hon. J J Bossano: The managers of the companies are not paid as managers of the company; they are all required to do that additional work, in addition to their employment in the public service which they get paid for in the public service.

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Hon. J J Netto: [*Inaudible*] perhaps you misunderstood me or perhaps I should have expressed the supplementary –

Hon. J J Bossano: No, no, I understood.

Hon. J J Netto: – question in a different way.

Hon. J J Bossano: I have understood precisely.

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Hon. J J Netto: What I am trying to do is to follow the logic in the sense that in his original answer he was saying that she was a manager, obviously she was working as a manager for Dr Giraldi Residential Home, what was then the Social Services Agency. Now, if I follow the logic of your answer she is now working as a manager in the Employment Service, which is a different entity altogether.

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In other words, what has superseded the Social Services Agency is the Care Agency; but she is not working for the Care Agency, she is now working for the Employment Service and I believe or suppose that she is a GDC employee, as opposed to a Care Agency employee.

So what I am asking is whether there was, prior to the employment of Ms Joanna Hernandez in the Employment Service as a GDC officer, a vacancy for the things that he has now said.

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Hon. J J Bossano: Yes and I am telling him, Mr Speaker, the job that she is doing as manager of the company is the same as the job that is being done by the manager of the two other companies. Those three managers are not jobs that are vacant which are advertised and recruited from outside. They are duties allocated to staff of the Employment Service and therefore the people who are in the Employment Service that manage the three companies are people that, if the companies were not there, would still be in the Employment Service.

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This particular employee was re-engaged in the Government service – that is to say, in the Civil Service – in accordance with the recommendations of the Tribunal and she has been deployed to the Employment Service and she has the grade and the pay scale of the manager of the Dr Giraldi Home which is what the recommendation was.

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Hon. J J Netto: Well, Mr Speaker, notwithstanding the fact that she had already been paid compensation as a ruling from the declaration from the Chairman, can the Minister tell me whether the salary scale is the salary scale of a HEO?

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Hon. J J Bossano: I have just told him, Mr Speaker, the salary scale is the salary scale of the manager of the Dr Giraldi Home. The recommendation of the board was that she should be paid compensation *and* re-engaged in the Government service, but not in the Care Agency, given the fact that there might be a

problem of friction in returning there and that is the recommendation that has been accepted and implemented by this administration. So what does he want to know?

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Hon. J J Netto: Mr Speaker, what I am trying to find out is that this particular lady, she was working as a manager in Dr Giraldi Home and for that she was the manager, so she had a wage which was to do the managing for that particular function.

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What I am trying to find out is, as a manager now working for the Employment Service, whether she is in that particular grade of a HEO or perhaps some other particular grade, and I think that is a reasonable question. I am sure that the Hon. Minister would know whether she is working... Because the point is when she was working for the Social Services Agency, that grade at that time was not a grade HEO or GDC equivalent. It was a specific grade of the Social Services Agency before.

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So what I am trying to find out now, something that does not exist right now, because obviously the Social Services Agency has been superseded by the Care Agency, she is now working in Employment Services, whether that is the grade of the HEO.

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Hon. J J Bossano: I know what he is trying to find out and I have given him the answer on each and every time that he has repeated the question.

Mr Speaker, the Tribunal made a ruling. The ruling was compensation and a recommendation of re-engagement by the Government of Gibraltar, in any Government Department but not in the Care Agency, on the scale and the grade that the person that had been dismissed enjoyed at the time that she was dismissed, and that is what we have implemented. If that pay is the same as the pay of a HEO or an SEO or any other grade, I am not able to tell him, but I can tell him that he can find it in the Estimates Book. It is a public document which will show what the manager of the Dr Giraldi Home is employed at and that is the pay.

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Hon. J J Netto: No, no, there is a difference. There is a difference because as the Minister of Social Services will be able to inform him, at the time that particular post of manager was, as I said before, manager only and exclusively of Dr Giraldi Home. The post of manager, which it is now, is a post of manager for Dr Giraldi Home and St Bernadette – in other words, a general manager's post – which is a different thing to what happened before. So it is not the correct analogy in terms of what you have just said.

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Can I put it in a different way, if he finds it so difficult? (*Interjection*) Can he actually say what is – the point, in whatever grade of manager – the annual wage that she will be getting?

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Hon. J J Bossano: Well, I can tell the hon. Member that what we have done in her case is that the recommendation of the Tribunal has been implemented and therefore, we have taken the pay of the job that she was doing, we have looked at what is the equivalent pay now and we have given her that pay.

There are peculiar examples of things that have happened in the GDC, where for example, a monitor was recruited on an advertised rate of £18,000 and within a month of having started work, he had negotiated for himself an increase of 50% in his pay, backdated to the day that he started work. (*Laughter*) So, if he wants me to give him the details of anomalies, I can be here a very long time, pointing to all the anomalies that have existed.

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As far as I am concerned, no political decision has been taken on changing the ruling of the Tribunal. The political decision has been to accept the recommendation of the Tribunal. The Tribunal said that she should be re-engaged on what was the equivalent pay of what she was getting, which she would have been getting, if she had not been sacked.

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Hon. D A Feetham: Can I ask the hon. Gentleman, did the Tribunal, when it made its compensatory award to Mrs Hernandez...? I ought to have actually declared an interest: I represented Mrs Hernandez to begin with, in fact, before she asked me to pass the file to Mr Picardo and he took over from me. I am duty bound to declare that. I think Mr Bossano represented her later on as well. (**Hon. J J Bossano:** Absolutely.) But did the compensatory award, awarded to her, did that include future loss of earnings? Is he absolutely certain – I have not looked at the judgment, but certainly I am going to look at the judgment after we leave tonight – that the total package of compensation awarded to Mrs Hernandez did not take into account the fact that reinstatement was not a possibility in this particular case and that, therefore, she is not now in a position where she has obtained that compensation – which she would not have got, if she had been reinstated – plus reinstatement? Is he certain of that?

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Hon. J J Bossano: Well, Mr Speaker, I do not pretend to be a lawyer, but I am not sure that the hon. Member is as conversant with employment law as I am. (*Interjection and laughter*) In fact, if she had been re-engaged at the time that the ruling was made, then of course clearly, which is when the Chairman intended that it should be made, she would have been paid a lot of money between then and now.

880 The Tribunal made the ruling that this should be done in conjunction and in addition to the
 compensation for loss of earnings between the last day that she worked and the day that the ruling was
 made and the Government agreed to pay the compensation, but said they would resist the re-engagement
 recommendation, and I regret to say, in my view, incorrectly – the Tribunal did not go back and revise the
 885 compensation in the light of the fact that the other half of the recommendation had been rejected.

Hon. D A Feetham: That is what I am asking.

Hon. J J Bossano: Yes. It did not happen, I think, incorrectly.

890 **Hon. J J Netto:** Mr Speaker, can I ask another supplementary question and that is that this particular
 post that this lady is occupying today is a post that should be ring fenced, in accordance with the
 agreement between the union and the Government. In other words, whenever a post exists in any
 particular organisation within the GDC, it should go internally within what are the employees of the
 895 GDC, to be able to apply, or at least to have the opportunity to apply to a post which is quite senior,
 particularly if I understand correctly, she is holding a position of HEO.

Has the Government therefore not consulted the union to waive the agreement, so that, given that it
 was ring fenced, they can put it to one side so that the Government could proceed in this direct
 appointment?

900 **Hon. J J Bossano:** I am afraid, Mr Speaker, the hon. Member does not have a clue what he is talking
 about. *(Laughter)* There is no ring fencing in the GDC. What *his* administration agreed with the union
 was that whether they liked it or not, everybody was made a civil servant on 1st October 2011 and then,
 when the GGCA objected to the transfer of people into the Civil Service – I must say in a way which was
 905 completely in breach of General Orders, vetting and everything else – when a list of names was provided
 to the Public Service Commission by the Office of the Chief Minister with instructions that they had to
 rubberstamp it, they were all given letters informing them that they were now civil servants as of 1st
 October. *(Interjection)* Well, Mr Speaker, I am not going to waste opportunities to remind Members of
 things that they seem to have forgotten! *(Laughter and interjections)*

910 It was as a result of that objection that the previous Government backtracked on what it had told the
 GDC employees, which was that they were going to be integrated into the Civil Service unconditionally,
 and they said that those who were in the Civil Service were now ring fenced, meaning that they could
 only apply for each other's jobs.

915 When we came in, since it was our intention not to dissolve the Gibraltar Development Corporation,
 which was the previous plan, I thought it would be fair to the people who had been told they were going
 into the Civil Service without an alternative because their previous home was being demolished with
 them still in it, that they should be given an opportunity to come back home, and I am happy to say that
 75% of them did come back home.

920 The ring fenced ones therefore are the ones who stayed in the Civil Service in accordance with the
 union agreement. There is no union agreement covering GDC employees on ring fencing; nor is there
 anything to prevent the GDC employees from adding new jobs or having people seconded to it. Indeed,
 some new jobs have been created recently because some people from the Regulatory Agency are going to
 be within the GDC. So this is something... and indeed, once the jobs are in the GDC, it means the that the
 people there will have more opportunities in the future than those who, in my view, mistakenly accepted
 925 the philosophy of the GSD and stayed ring fenced, because they will never get out of the ring.

Hon J J Netto: Mr Speaker, I think that in a previous supplementary question, the answer by the
 Minister did not actually provide, in my opinion, the information I wanted, and that was whether he could
 tell me exactly what is now her annual wage at the moment. Can he actually tell me what is her annual
 930 wage? That is the first thing.

The second thing, which is part of the original question, is can he provide me with a job description of
 the work to be fulfilled? Can he do so?

935 **Hon. J J Bossano:** Mr Speaker, the question says 'salary grade'; it does not say her annual wage. I do
 not know what she is getting paid. I know that the salary grade is the salary grade of the job that she had
 in the Dr Giraldi Home. I do not know whether it is the equivalent of an HEO or not. I know the other
 two companies' managers are Employment Service HEOs, but I do not know whether her grade is the
 same, below or above. So I cannot tell him that. I can tell him that the grade is the grade of the Giraldi
 Home that she would have got had it been implemented at the time and her pay has been increased since
 940 then.

As regards her job description, I have given him what the role in the company is, and the role is to co-
 ordinate the provision of supported employment and advise those who are seeking such employment. So

945 in fact the actual thing that she does on a daily basis is to look after the 48 people we have now got in supported employment who have now got indefinite contracts who are placed in different places to liaise with the relatives of those people, because they are people who need support, and to make sure that they have not got any problems where they are placed. So we have now got a dedicated person doing that and, in addition, interviewing people who approach us on the basis that they have got somebody in their family who they feel might require the working environment that this company is providing, which they welcomed when I answered it in fact.

950 **Hon J J Netto:** Mr Speaker, just one final one, a supplementary question. If I were to write to the Hon. Minister in relation to what is her annual wage at the moment and whether she is within the HEO, will he be able to provide me with that information?

955 **Hon. J J Bossano:** Yes, I will get her to write back to you, Mr Speaker. *(Laughter)*

**Notices of termination of employment
Number received since 9th December 2011**

960 **Clerk:** Question 726, the Hon. D A Feetham.

965 **Hon. D A Feetham:** Can the Minister for Employment state how many notices of termination of employment have been received by the ETB since 9th December 2011 divided by (a) by nationality; and (b) by industry sector?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

970 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker, I will answer this Question together with Questions 727 and 728.

**Notices of termination/engagement of employment
Number received from public sector since 9th December 2011**

975 **Clerk:** Question 727.

980 **Hon. D A Feetham:** Can the Minister for Employment state how many notices of engagement of employment has his Department received from employers in the private sector since 9th December 2011 divided by nationality and by industry sector?

Clerk: Question 728.

985 **Hon. D A Feetham:** Can the Minister for Employment state how many notices of termination of employment and notices of engagement have been received by the ETB from the public sector (including for the avoidance of doubt Government-owned companies and authorities) since 9th December 2011 divided by nationality?

990 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, the number of notices of termination of employment received by the Department from the private sector between 9th December 2011 and 30th June 2012 was 4,556.

995 The nationality breakdown of this 4,556 is as follows: Gibraltarians, 1,455; Moroccans, 72; other British, 950; other EEC, 642; non-EEC, 66; and Spanish, 1,371.

1000 The breakdown by industry is as follows: electrical supply, 2; water supply, 8; ship building, 125; construction, 1,230; other manufacture, 38; wholesale trade, 49; retail trade, 343; hotel trade, 36; restaurants and bars, 327; repair of goods, 25; sea trade, 58; air transport, 6; road transport, 70; post and communications, 11; banking, finance and insurance, 498; public administration, 93; Police and Fire Service, 62; sanitary services, 3; education, 38; medical and health services, 89; and other services, not otherwise classified, 1,445.

1005 The number of notices of terms of engagement received by the Department from the private sector between 9th December and 30th June was 3,844. Of these, the breakdown by nationality is as follows: Gibraltarians, 1,494; Moroccans, 54; other British, 882; EEC, 429; non-EEC, 67; and Spanish, 918.

I am informed that the computer programme does not provide the function that gives a breakdown by industry sector of the terms of engagement.

1010 The breakdown now of the terminations in the public sector is as follows. The total in the same period is 357 from the public sector and the breakdown of the 357 is Gibraltarians, 239; Moroccans, 7; other British, 57; other EEC, 10; non-EEC, 1; Spanish, 43.

The number of terms of engagement in the public sector between December 2011 and 30th June by nationality is as follows. The total is 961, of whom 808 are Gibraltarians, 11 Moroccans, 91 other British, 17 other EEC, 2 non-EEC and 32 Spanish.

1015 **Hon. D A Feetham:** Can I ask the hon. Gentleman – I have no supplementaries – for a photocopy of that answer so that I can take it with my papers?

Hon. J J Bossano: Well, I suppose...

1020 **Hon. D A Feetham:** It need not hold the proceedings up, because I have no supplementaries.

Clerk: I have a set here which I can have photocopied.

1025

**Future Job Strategy
VTS trainees/employees placed with private employers**

1030 **Clerk:** Question 729, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister for Employment state how many VTS trainees/employees under the Future Job Strategy are currently placed with private employers?

1035 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): I will answer, Mr Speaker, this Question with Question 730 and Question 731.

1040

**Future Job Strategy employees
Employers who have signed ETCL contracts**

1045 **Clerk:** Question 730.

Hon. D A Feetham: Can the Minister for Employment please provide a list of the names of employers who have signed contracts with Employment and Training Company Limited in respect of the Future Job Strategy employees?

1050 **Clerk:** Question 731.

1055 **Hon. D A Feetham:** Can the Minister for Employment state how many VTS trainees/employees are placed within the public sector under the Future Job Strategy identifying the Department, Authority or the Government company in which they are placed?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

1060 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker, the number of VTS trainees/ETCL employees placed in the private sector is 381.

The number of employers that have entered into partnership agreements with ETCL since 1st February is 140. These 140 employees have been contacted to see if they have any objections to having their names made public.

The number of VTS trainees/ETCL employees placed with the public sector is 185 in the following Departments: Care Agency; Ministry for Enterprise, Training and Employment; Department of Social

1065 Security; Department of Consumer Affairs; Department of Education; GHA; Gibraltar Citizens' Advice Bureau; Gibraltar Court Services; Gibraltar Sports and Leisure Authority; Gibraltar Tourist Board; Ministry for Sport, Culture, Heritage and Youth; Human Resources; Royal Gibraltar Police; Statistics Department; and Treasury.

1070 **Hon. D A Feetham:** If he does not know the answer because he requires notice, I will give him notice next time around, but does he have a breakdown of the number of trainees in respect of each of those Government Departments and Authorities?

1075 **Hon. J J Bossano:** It is a list that would only be true on the day that I give it to him –

Hon. D A Feetham: Absolutely. I understand that.

1080 **Hon. J J Bossano:** – because it is not that people are there fixed. So the answer that I would give today would not necessarily be accurate tomorrow. I would say that about half of the people were people who were already in those Departments under the VTS and the other half are people who have come in since February. Of course, it includes the people in the Gibdock and the people in the Construction Training Centre and people who were in the Treasury and in the Tax Office because they were doing, at the same time some kind of business course, in Bleak House.

1085 But if he gives me notice, I can give him where they are the day I give the answer; but the following day the numbers will have changed. They are not static.

Hon. D A Feetham: No, I understand that. What I am asking him is does he have the information there in front of him today?

1090 **Hon. J J Bossano:** No.

Hon. D A Feetham: Alright, well I will give him notice next time round.

1095

**GTC apprentices
Number in training and employers**

1100 **Clerk:** Question 732, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister for Employment state how many apprentices registered at the Gibraltar Training Centre to NVQ standard are currently undertaking training and how many of these apprentices are in placements with training providers, identifying the employers?

1105 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): I will answer this Question together with Questions 733 and 734.

1110

**Gibdock apprentices
Number in training and employers**

1115 **Clerk:** Question 733, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister for Employment state how many apprentices registered at Gibdock Training Centre are currently undertaking training and how many of these apprentices are in placements with training providers, identifying the employers?

1120

Clerk: Question 734.

1125 **Hon. D A Feetham:** Can the Government advise how many school leavers have this year applied for apprenticeships in the Engineering and Construction Trades, Social and Health Care, Business and Administration programmes, or any other, and how many of these will be taken on as from September?

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

1130 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Mr Speaker, there are 42 trainees at the Construction Training Centre, of which 17 are in placements – in the Housing Works Agency, nine in GJBS and three with private companies.

There are 34 trainees in the Gibdock Training Centre, of which 13 are placed with Gibdock, 13 in Government Departments and eight in private companies.

1135 The Government has not yet finalised the arrangements for apprenticeship schemes that will be introduced in the current financial year.

Hon. D A Feetham: Just in relation to the identification of the employers, I did make a note that, in relation to a previous question I asked, he had said he was going to ask the employers whether they had objection to their names being identified. There is another Question on the Order Paper that we will come to in a moment, and that is one of the reasons why I actually need the names.

1140 Does he not accept that... or is there any reason in principle why the Government will not identify the names of these employers, if one or two of them come back and they say... or however many come back and they say, 'We do not want you to identify our name.' Is there any reason in principle why you ought not to identify the names of these employers?

1145 **Hon. J J Bossano:** The reason in principle is that I think when we approached them to take on a trainee and sign an agreement with us, we did not tell them we were going to publish their names. Therefore, if they do not want their names published, we will not publish them.

1150 **Hon. D A Feetham:** Yes, but does he not recognise that there is a legitimate interest in the Opposition in knowing the names of these particular employers, given, for example, that it has certainly come to the attention of this side of the House that a number of these companies that have actually signed contracts with Employment Training Company Ltd are actually start-up companies? Therefore, it is part of the legitimate role that the Opposition plays in actually analysing Government business and what the

1155 Government is actually doing in respect of what is a very important area of Government policy. Therefore, we have a legitimate right to make that analysis and to see how many are start-up companies, how many, for example, are then involved in other types of transactions with the Government. There is a Question on the Order Paper in a moment about how many of these companies that take on these trainees also have the benefit of a contract with the Government, and whether there is some form of *quid pro quo* for example, taking place here, where the Government is saying to somebody, 'Start up a company, you take on board five of my trainees and I will then give you a Government contract to clean lifts or to renew lifts' or whatever.

1160 Does he not accept that that is, it is legitimate for us, bearing in mind our role, to know the identity of these individuals/companies?

1165 **Hon. J J Bossano:** Well, Mr Speaker, I think if the hon. Member is interested in knowing how many of the people that have got partnership agreements are actually providing work for the Government, that is the question that he is asking. Why he should want to know what the name of the company is, I do not see that provides him with any further information than what he wants to know.

1170 **Hon. D A Feetham:** I have just explained.

1175 **Hon. J J Bossano:** I do not agree with him that it is either necessary or legitimate to want to know the name, because it is not... I have told him the number of companies there are and therefore, I think he will find, when we get to the other Question, that the immense majority of those companies are not doing anything for the Government.

1180 **Hon. D A Feetham:** Of course the immense majority are going to be doing nothing for the Government! I would be very surprised if 140 companies had Government contracts, but you see the point is that 10 of those companies or a number of those companies do have something to do, or are providing services to the company under contracts that may be very beneficial to those companies. We certainly have a legitimate interest and a legitimate need to know, for example, whether those companies are start-up...

1185 I am just giving you an example. This may not be the entirety of our concern in relation to this. We are entitled to know whether the Government is actually potentially saying to individuals, 'We will give you *x*, *y* and *z* contract, you take on five of our employees'; indeed, also, look at who exactly is behind these companies and draw whatever inference, or whatever conclusion we feel is politically legitimate for us to draw. That is politics.

1190 **Hon. J J Bossano:** Well, if it is politics, I can tell him that there is a company called Capurro that has
got a contract for £32,000 a month with a bus company. I do not know whether I can draw any inference
from the relatives of Mr Capurro, but I can assure him that nobody is getting a contract from the ETB that
is anywhere near that or at all, and that therefore, since he is asking me about 140 companies and he
1195 already knows that the vast majority of them have nothing to do with getting any contracts, then I think it
is legitimate that I should ask my staff to contact the 140 and say to them, 'Look, Mr Feetham wants me
to publish your names. Do you have a problem?' If the 140 say no, we will publish 140; if 139 say no and
one says, 'Yes, I have a problem', then we will publish 139 names.

1200 **Hon. D A Feetham:** Do you have a problem in providing me... – and I do not want to, for the
avoidance of doubt, resile from the position that this information ought to be provided publicly and that
we are entitled to this information. But will he in the first instance, at the very least... Look, I may be on
a trail of inquiry that leads to a dead end. I do not know. There are people that come to me – maybe even
the same people that used to go to him and he used to say, 'Look at what the GSD is doing, look at what
they are favouring *x*, *y* and *z*, friends of theirs'. Well, those same people may be coming to us now. It is
1205 perfectly legitimate for us to at least investigate that and say, other people that, for example, are getting
contracts in respect of lifts in the estates and are they starting up companies and is that linked to the
Future Job Strategy and trainees? I do not know.

Is he prepared to provide me with a list of those companies, in private? I will not make it public,
unless it is provided across the floor of the House. Right. So, in other words, he does not suffer in his
1210 position, because I am not going to make them public, unless he does so across the floor of this House, so
at the very least, I can see whether there is anything in some of these complaints that are coming to me, or
there is not.

Hon. J J Bossano: I do not know what complaints he is getting. I know what was being said before
and I do not know whether everything that was said before was true, or none of it was true.

1215 All I can tell him is, Mr Speaker, that certainly he has chosen a very bad example in pointing to the
lifts, because all the guys that are repairing the lifts all live in Algeciras and they all have to be called via
Madrid for them to come here and repair lifts. A situation I intend to put right, by the way.

1220 **Hon. D A Feetham:** I know that you intend to put it right.

Hon. J J Bossano: Absolutely.

Chief Minister (Hon. F R Picardo): Don't you agree?

1225 **Hon. J J Bossano:** Perhaps you prefer that they should be in Algeciras?

Hon. D A Feetham: No, Mr Speaker, as long as it is done fairly and openly and everybody is given a
chance to compete for those jobs, absolutely, I agree entirely with the hon. Gentleman.

1230 **Hon. J J Bossano:** I can tell the hon. Gentleman –

Hon. D A Feetham: What I would not agree is, of course, if it goes to one or two favoured
individuals *a dedo*, as the Chief Minister likes to –

1235 **Hon. Chief Minister:** That used to happen before 8th December.

Hon. J J Bossano: Right. Mr Speaker, I can tell the hon. Member that when it comes to the other
Question, he will see that either the people that are telling him stories are not telling him the truth, or his
fertile imagination is running away with him.

1240 **Clerk:** Question –

Hon. D A Feetham: He hasn't... Just give me one more opportunity.

1245 Is he prepared to provide me with that information with the names of those companies on a
confidential basis, so that I can make my own enquiries, or not?

I think that is a fair request. It does not prejudice the position of these individuals at all, because you
are providing them to me on a confidential basis. Your concern is providing it publicly across the floor of
the House. If you are prepared to do it, I am –

1250 **Hon. J J Bossano:** I think I will wait until I get the replies from the 140 people that we have contacted and see what happens.

1255 **Future Job Strategy sheltered employment schemes
Number of people placed in public and private sectors**

Clerk: Question 735, the Hon. D A Feetham.

1260 **Hon. D A Feetham:** Can the Minister for Employment state how many people are on the sheltered employment schemes under the Future Job Strategy who are currently placed in the private and public sectors?

1265 **Clerk:** Answer, the Hon. the Minister for Enterprise, Training and Employment.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, there are currently 48 persons who are employees of the supported employment company, of whom 29 are in the private sector and 19 in the public.

1270 **Hon. D A Feetham:** Are new entrants closed to the scheme? I know I am coming back to the previous Question, but I note that, in relation to the previous Question – they are all related, it is just that there are different aspects of the Future Job Strategy – he said that, for example, in relation to the construction sector, that no decision had actually been made as to new intakes in September. Has a decision been made in respect of sheltered employment in respect of new entrants?

1275 **Hon. J J Bossano:** It is demand led. It depends on how many people need the support, but clearly it is something that needs to be carefully assessed, because this is, we are giving indefinite contracts to the people here and we do not expect them to ever be without work and we are giving them as a consequence, basically a job for life, which I think they deserve. Therefore, really, we need to be sure that those we are helping are those that really need that help and we do not finish up with a lot more people who could in fact be in the market, albeit being given a helping hand at the beginning.

1280 The position now is that with the numbers we have got in ETCL, we are now waiting to see some movement out into the placements, so that we can recycle that money and take new people in. I think in the case of the apprenticeships for the construction that I am hoping to achieve, that will mean that once we have got that ready, that could be quite a big influx into that particular company, but we are not likely to take very many before that is ready, because frankly, I want to make sure that I have got enough funding in the moneys that the House has provided, so that we do not run out of money when the time comes to finance the construction training, which is a very important part of the strategy.

1285 But in this case we can expect it to be gradually increasing, that is the answer.

1290 **Hon. D A Feetham:** Yes. The position in relation to these is different from the position – (**Hon. J J Bossano:** Absolutely.) These are jobs for life.

1295 What you are saying, so that I understand it, is effectively that in relation to the main bulk of the trainees in the Future Job Strategy, the decision as to whether to take new people on depends on the success of actually ensuring that private employers take these people on permanently. The reason for that, I presume, is because the £11 million that has been estimated as a recurrent cost every single year is based on a finite number of individuals (**Hon. J J Bossano:** Absolutely.) and you have got to effectively re-site some of them. That is the position.

1300 **Hon. J J Bossano:** That is the position.

Hon. D A Feetham: Alright.

1305 **Hon. J J Netto:** Mr Speaker, just for the purpose of clarity more than anything else, when we talk about 48 persons in sheltered employment schemes, what do we actually mean by the definition of ‘sheltered employment’? Are we simply talking about disabled persons or perhaps we are talking about disabled persons and some other groups of people – to mind, it could be some looked after children, it could be perhaps some people may have, as I was saying before, an affliction by drugs and alcoholism...?

1310 **Hon. J J Bossano:** No, the majority of this – I would say probably something like 40 out of the 48 – were in January under the VTS. Some in fact are in the... There is one young lady in the Employment

Department, who has been there for eight or nine years – (*Interjection by Hon. D A Feetham*) in your time, that is right. She is now in the Employment Company and she has now got an indefinite open contract and therefore she is paying social insurance, she is treated as an employee and she will eventually get an old age pension and community care. That is one of the benefits of putting her in this set-up.

Clearly, as a result of monitoring this more closely now, because we now have a dedicated company that does that and nothing else, we have found some people who were not happy where they were and therefore, maybe they were not turning up but they were still getting paid. Those we have moved sideways into other areas and now we are at the stage where we think the 48 are now settled, the bulk of them in the private sector, 29 and 19 in the public sector, but we keep in touch with the individual, the placement provider and the family to monitor that. We are now looking at other people that we might be able to help, but it is not intended for people who have got, if you like, social problems and therefore have difficulty in competing in the market. The people with social problems we will deal with, ETCL and clearly, for those people, we are in a position to persuade employers who are doing work for the Government to take those cases on, which I think was happening previously anyway with the VTS.

Hon. J J Netto: I can accept everything that the Hon. Minister has said, but what I was trying to find out, by the application of the words ‘sheltered employment’, that we were not just talking about people with disabilities. I think in fact there is a Question on the Order Paper later on for the hon. Lady, in relation to some looked after children – this is what I am trying to find out – (**Hon. J J Bossano:** No, no, no.) which may or may not be included under the 48. Perhaps he may need notice of the question, but whether we are talking about that group of people or perhaps we are talking, in addition, to people with disability, some people may have an affliction in the past with drugs or alcoholism.

Hon. J J Bossano: Although the Question is about sheltered employment, the answer is about supported employment. I assumed that ‘sheltered’ was intended to refer to the questions I have answered before, which were the people in the VTS which then became the employees of a dedicated company that is [*inaudible*]. Those are not people with personality problems, shall we put it that way. These are people with disabilities which means that they would not be employed anywhere if we were not providing the wages. Those people will be, presumably, as long as they are fitting in and are happy and they are able to live and work in an environment where generally, if they have been there a long time, frankly, moving them elsewhere is a problem, because they are surrounded by people who are caring and are kind to them and they are happy there, and that is what we want.

We monitor it, just to make sure that that continues to be the case. We find slots for those who would be taken on from now on, where, as I have said, I believe about 40 of the 48 were there in January and that we have not taken all that many on.

But what we do not want is that this should be converted into something for which it is not intended.

Hon. D A Feetham: Can I just ask one more question in relation to this?

I have had a couple of constituents that have approached me that have said that they have gone to the hon. Gentleman’s Department with employers that are effectively willing to train them, and willing to enter into contracts with Employment Training Company Ltd.

In relation to those people, the position then really is again exactly the same, that unless... It does not matter whether they have a placement or they do not have a placement, whether they have an employer who is willing at the end of the day to guarantee them a job, unless there are two people who drop out of the system because they are permanently employed, those within the system, that you are effectively not funding any more of these trainees...?

Hon. J J Bossano: No, in the immediate future, like next week, that would be the case. But if we are approached by people in the category that the hon. Member has told us, then in fact they will be given priority and be put at the top of the list, because there is movement all the time taking place, within the 500 people we have already got, there are some people who are now coming out of the system and new people who are going to be taken in.

The increase is being, if you like, rationed at the moment, because I do not know whether I am going to be needing to find money for 50 construction apprentices or for 100 or for 150. Therefore, I do not want to use money that could provide financing for construction apprentices – we made a bid for a much bigger sum from the EU to support a much bigger volume of apprenticeships, and therefore at the moment, the intake is not as big as it has been, for example, until the month of July, when we were taking on something of the order of 25 months.

But the answer is, if those people have been to the Department, then they should make sure that there is a record of their having been there and that they are being put at the top of the priority list, so that they can be called as soon as we can start paying them. We want to encourage that.

1375 **Hon. D A Feetham:** No, they say that they have been. They say that the staff tell them that it is on your desk, so no doubt the Hon. Minister will get to them when he –

Hon. J J Bossano: As soon as I can, absolutely!

1380 **Hon. D A Feetham:** – as soon as you can. Of course, there is no question of those particular ‘jobs’ going to anybody else. If they are the ones that are –

Hon. J J Bossano: I understand.

1385

**Employers with Future Job Strategy trainees
Number also providing goods/services to Government**

1390 **Clerk:** Question 736, the Hon. D A Feetham.

Hon. D A Feetham: Can the Minister for Employment state how many employers who have signed contracts with Employment Training Company Limited in respect of Future Job Strategy trainees have the benefit of a contract with the Government, any public authority or Government-owned company for the provision of any goods and/or services of any kind?

1395

Clerk: Answer, the Hon. the Minister for Enterprise, Training and Employment.

1400 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** Yes, Mr Speaker, there are nine employers with partnership agreements with ETCL who are working on Government contracts that I am aware of – that is to say that the Department has something to do with it.

Whether any of the other 141 employers are providing any service or any work or anything to any other Government Department, because they have got a tender for something or other, I do not know.

1405 But I can tell him that the nine are the ones that are involved in the system introduced by the previous administration of allocating contracts from the Employment Service, on the basis that they took on people who were on the unemployment list.

Hon. D A Feetham: That is pretty nifty footwork, if I may say so, it really is!
But the question is not about your Department. The question is:

1410 ‘with the Government, any public authority or Government-owned company’.

In other words, it is with *anybody*. Is there any particular reason why he has come to this House today, and not in a position to answer what is a pretty clear Question, which is –

1415 **Hon. J J Bossano:** Well, I don’t think it is a clear...

Hon. D A Feetham: – which is that I am asking how many of these people who have signed contracts with Employment Training Company Ltd also have the benefit of a contract for the provision of goods and services with the Government? Very clear.

1420

Hon. J J Bossano: Well, it may be very clear to him, but it is only clear to him, given the assumptions that he is making which he revealed in the supplementaries previously.

1425 That is to say, I can tell him that as far as the Department is concerned, there are only nine, because the Department has only been involved with nine companies that are doing work in the construction sector predominantly, where they are on the approved contractor list. These are companies that put a bid for work, under the system introduced by the previous administration when they announced they were suspending the tender system and that people have to submit... There will be a rotation of contracts for the construction work and I think, out of the nine, eight are construction companies, and these eight construction companies take labour from the ETB as required by the original conditions. They are not

1430

allowed to use subcontractors, they have to use local labour, and they have to put a competitive price, which has to be monitored on the basis of what is the going rate by other people. Those are the only nine.
The only way that I can answer the hon. Member’s question is to write to the 139 – or the 131 – that are not involved with my Department, and say to them, ‘Are you by any chance selling something to any Government Department – any service?’

1435 The other Departments do not know that they have got a contract with me, and I do not know whether they are selling anything to anybody else. That is the whole point. Therefore the hon. Member assumes that there is somehow, within Government, a system where, when people put a tender, they get asked 'Do you have a partnership agreement with ETB?' No such system exists.

1440 **Hon. D A Feetham:** The problem with the hon. Gentleman is that he answers my question, anticipating my supplementary.

You have come to this House anticipating that I am going to accuse you personally of 'You have effectively enabled the employment of x number of Future Job Strategy trainees by offering contracts, lucrative or otherwise, to those employers.'

1445 Look, I do not know, it depends on the answers and the information that you provide as to whether that conclusion is justified or it is not justified. But the reality of the situation is that you are not only... you are representative, you are responsible, obviously, for areas within your responsibility. The Future Job Strategy is within your responsibility. Unless I ask the same question to every single Government Minister, I am never going to get the answer, according to your logic.

1450 Is he prepared to provide me with the answer to this question? He can do it by way of correspondence to me, or is he not? Because that information ought to be available.

Who are the people who have entered into contract with Employment Training Company Ltd, who have the benefit of a contract with the Government for the provision of goods and services? Very simple.

1455 **Hon. J J Bossano:** Mr Speaker, first of all, I am not answering a question on the assumption of his supplementary before the supplementary is put, because by mistake, he put a supplementary in respect of the previous question instead of this one. He actually said in the previous question what he has just said now, that he wanted to know the names of the 140, to see if any of them have the benefit of a Government contract and I told him to wait till he came to this question, when he might be surprised. Those are precisely my words of 10 minutes ago, and in fact what I have told him is, there are, as far as I am aware, nine *and only nine* of the 140.

1460 If I have tomorrow a partnership agreement with Barclays Bank, then presumably, by the logic of the hon. Member, I ought to announce that the Government has got a bank account with Barclays Bank, even though the bank account is not the bank account of the ETB and if I have a partnership agreement with Morrison, then I have to say that somebody from the Health Authority went across and bought something from Morrison's.

1465 Because he is asking me whether anybody in the 140 supplies anything to the Government.

1470 **Hon. D A Feetham:** [*Inaudible*] answer the question!

Hon. J J Bossano: Yes, that is the question. Yes, that is precisely the question: 'Has anybody who has signed an agreement with me makes... the benefit of a contract with the Government, any public authority, any Government-owned company, for the provision of any goods or any service?' So that means that if tomorrow the bus company buys petrol, I am supposed to be able to say to the hon. Member, 'Shell has got a partnership agreement with me and is now selling petrol to the bus company.' That is precisely what the question asks.

1475 My answer to him is there is no connection between the sale of petrol to the bus company and the partnership agreement with me. Whether there *is* a connection, or whether he could *impute* a connection or whether he could argue that there is a connection is in the one where the partnership agreement and the allocation of the work happens in the same place, and there are nine in that category.

1480 **Hon. D A Feetham:** He really does like to obfuscate and confuse issues and weave in and out and dodge –

1485 **A Member:** He's calling the kettle black. (*Laughter*)

Hon. D A Feetham: It is very simple. There are 140 private companies that have entered into a contract with the Employment and Training Company Limited. How many of those provide goods and services for Government?

1490 And you are refusing to provide me with the answer to a quite legitimate question. Is it because you have something to hide? Because that is the inference that I need to draw from your refusal to provide me with the information!

1495 **Hon. J J Bossano:** I am not surprised that he draws that inference, he served in a Government that had plenty to hide all the time! I am not at all surprised that he thinks that everybody is like they were – and he is wrong!

As far as I am aware, 131 do not supply anything to the Government, but I cannot guarantee him that tomorrow somebody is not going to buy a cup of tea in a coffee shop where there is a partnership agreement with me. In that case, that coffee shop will be selling something to the Government.

1500 The inference that the hon. Member is trying to invent is that, somehow, the 140 companies have been selected in preference to competitors because they signed partnership agreements and others do not. That is complete and utter fabrication on his part, and there is no justification for it.

1505 As far as I am aware, none of the other companies have anything to do with the Government in terms of any contract, as far as I am aware. But since I am writing to all of them, to see if they are happy to have their names revealed, I will say to them, 'Mr Feetham wants to have your name, because he suspects that I am bribing you with contracts. So please can you answer the two questions: (a) do you mind your name...; and (b) can I tell Mr Feetham that you're not being bribed' and that should keep him happy.

1510 **Mr Speaker:** I think really we have quite exhausted the subject, unless there is a different question.

Hon. D A Feetham: No, no, Mr Speaker, he has either misunderstood or on purpose he really is clouding the issue. It is not a question of the provision of goods and services at a level of the tea lady or somebody buying some sandwiches for a meeting that the Chief Minister may hold at No. 6 Convent Place –

1515 **Mr Speaker:** With respect –

Hon. D A Feetham: It is the benefit of a contract – that is the question.

1520 **Mr Speaker:** No, with respect, I have got the question here –

Hon. D A Feetham: It is the benefit of a contract.

1525 **Mr Speaker:** No, with respect, goods and services *of any kind* – which to me, includes tea and coffee.

Hon. D A Feetham: No, it is the benefit of a contract with the Government!

Mr Speaker: Yes, for the provision of goods and services *of any kind*.

1530 **Hon. D A Feetham:** Yes, of course but – Yes, but it is the provision of a contract with the Government!

1535 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Selling a sandwich [*inaudible*].

Hon. D A Feetham: It is the provision of a contract. (*Interjection*)

1540 **Mr Speaker:** Order, order! I get the point. 'Of any kind' could relate either to the contract or could relate to the goods and services.

1545 **Hon. D A Feetham:** No, no, it relates to the goods and services provided under the benefit of a contract. (*Interjections*) Nobody could be misled. There is no way in a million years that the hon. Gentleman could possibly, from this question, have the... 'Well, Feetham, what he really wants me to do is to provide him with information of how many sandwiches the Chief Minister actually buys from Amar opposite No. 6 Convent Place.' (*Interjections*) *It cannot possibly be the case!*

What we are asking is the benefit of contracts. Now, you do not want to provide me with the information – fair enough.

1550 **A Member:** The Speaker has ruled!

Mr Speaker: I think the question has been posed and I have allowed it to be posed several times in as many variations as possible. I think the answer has been equally consistent in that manner. We really cannot pursue the matter much further.

1555 **Hon. J J Bossano:** Can I make clear that my answer is, as far as I am aware, and I have no reason to believe that I am mistaken, the only nine people who are providing any kind of service on any kind of contract are the nine that I have mentioned. Is that clear enough for the hon. Member?

1560 **Hon. D A Feetham:** That is in relation to his Department. (**Hon. J J Bossano:** Yes.) Right.

Hon. J J Bossano: As far as I am aware, no other –

Hon. D A Feetham: That is not the question.

1565 **Hon. J J Bossano:** Mr Speaker, no other Department that issues contracts asks the prospective contractor, ‘Do you have...?’ None of the Departments know who I have contracts with and I do not know who they have contracts with, so there is no connection between the two! Does he not understand that? That is what I have been telling him all the time! If there are people in...

1570 If tomorrow, the Health Authority (*Interjections*) or the Tourist Office has given a contract out, it is not the case that in deciding between one offer and another offer, they ring me up to see whether there is a partnership agreement in place. That is *not* the case. The only Department that dishes out work to contractors in the construction industry and in the cleaning industry is my Department, in continuation of the policy introduced by the previous administration in 2010. (*Banging on desks*)

1575 **Mr Speaker:** I think really we have got as far as we can get with that question.

1580 **Gibraltar Savings Bank
Question 739 withdrawn**

Clerk: Question 739, the Hon. D A Feetham.

1585 **Mr Speaker:** I think that has been withdrawn, according to the note I have here.

Clerk: But he has got to do it formally. He has to formally withdraw it.

1590 **Hon. D A Feetham:** Yes, the Question is withdrawn – all aspects of Gibraltar Savings Bank business are actually exempt. I had a look at it in the Act.

HEALTH AND THE ENVIRONMENT

1595 **Commonwealth Park
Budget for Park and car parking**

Clerk: Question 740, the Hon. S M Figueras.

1600 **Hon. S M Figueras:** Yes, Mr Speaker, will the Minister for the Environment provide details to this House of the budget established for the creation of the Commonwealth Park providing, where possible, breakdowns in relation to anticipated expenditure on the Commonwealth Park itself versus the expenditure anticipated for the creation of the car parking facilities related to that project?

1605 **Clerk:** Answer, the Hon. the Minister for Health and the Environment.

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, the works for the creation of the Park have still not been awarded, therefore it is not considered advisable to publicly state the budget allocated to the project.

1610 I am, however, very pleased to announce that the Kusuma Trust Gibraltar has expressed an interest in participating in the project with a view to enhancing certain aspects of the park area for the benefit of the people of Gibraltar along the lines of its previous involvement in the Europa Point project, when it constructed the Kusuma Promenade as part of a wider improvement of that area.

1615 The cost of the creation of the car-parking facilities related to the project is also the subject of Question 784/2012 and will be answered by the relevant Minister.

Hon. S M Figueras: Mr Speaker, I asked the question of the Hon. Minister, to whom I am grateful for the answer, and I am obviously... I thank the Minister specifically for informing us that the Kusuma Trust

1620 has expressed an interest in participating in a manner similar to which it did in relation to the beautification of the area of Europa Point.

However, the reason why I asked the question, Mr Speaker, fundamentally is because in a statement by the Chief Minister in Press Release 505/2012, which was part of an exchange that we had in relation to the Commonwealth Park openly, he said that:

1625 ‘The project was likely to be completed ahead of schedule and under the budget originally estimate.’

Now, Mr Speaker, it is really very easy for the Government – certainly it looks very easy from this side of the House – to say that something is coming in under budget and earlier than originally estimated, without those figures or those dates actually being made public. So I wonder whether perhaps the Minister will reconsider the question and share with us that budget which was originally estimated to give us the opportunity and anyone listening in, to assess whether or not the Park is coming indeed under budget and coming ahead of schedule.

1630
1635 **Chief Minister (Hon. F R Picardo):** Mr Speaker, no, for this reason: because I have already dealt with this point on a number of occasions in this House in respect of a number of projects. We know what we think these projects were going to cost, because we costed our manifesto. The works have not yet been awarded. It does not make any sense to say what we think it costs to develop the Park, because if people who are going to offer to be the developers in a process of obtaining the work might be prepared to do it for less.

1640 In those circumstances, Mr Speaker, all we would be doing is spending more than is necessary of the taxpayers’ money in order to deliver these projects. If the hon. Member wants, at the end of the legislature, I will tell him what on our ledger we had as a potential cost for each of these projects, and what in fact they have cost, and then he can see which have cost less and which have cost more. I am even prepared to tell him how quickly we thought we could achieve the completion of certain projects, and then he can compare it to when we have. And that would be the appropriate time, Mr Speaker.

1645 I think I recall that in those exchanges I told him, also, that the Government was not going to be incurring more cost than it had to, to deliver its manifesto. Mr Speaker, the answer is the same in respect of this issue as it was in respect of the issue he was raising in those press releases, because what we will not do is allow those who may be seeking to do the work to know how much we had allocated it for it, so that even if they would do it for less, they will do it for more.

1650
Hon. S M Figueras: Subject to reservations in relation to the publication of those figures at that time, I am happy to accept that answer.

1655 **Hon. D A Feetham:** Mr Speaker, can I just ask the Chief Minister, what is the difference between providing my hon. and learned Friend the information in relation to those figures for this particular project and announcing that the extra floors plus the cladding at the ‘forgotten estates’ was £80 million?

1660 **Hon. Chief Minister:** Very simple, Mr Speaker, that those works were to be undertaken by GJBS. They were not going to go out for anybody to competitive tender.

Hon. D A Feetham: So effectively the position in relation to the cladding of the housing estates is that that is going to be done by GJBS.

1665 **Hon. Chief Minister:** Mr Speaker, we are in Parliament at Question Time to elicit information – not for information to be elicited *again*.

Mr Speaker, we have had this debate. He needs to go back to the *Hansard* and look at what we said then. It has already been clarified.

1670 **Hon. D A Feetham:** No, with respect, this has not been clarified. The importance of this is *consistency, consistency* on the Government side.

Hon. Chief Minister: This is ridiculous!

1675 **Hon. D A Feetham:** Now, you have – No, it is not ridiculous! (*Interjection by Hon. Chief Minister*) I am sorry, you may not like the question because you do not know the answer, or you make it along, as you go along.

1680 **Hon. Chief Minister:** That is silly!

Hon. D A Feetham: That is the problem. (*Interjections*) You provided an answer, you cannot provide the information because it is going to go out and it is commercially sensitive and I quite understand that. I have asked you what is the difference between that and the so-called forgotten estates' £80 million? You have said GJBS.

1685 So, I am just simply saying to you, the cladding therefore is going to be done by GJBS – and you do not want to answer (*Interjection*) because you do not want to –

Mr Speaker: Order! Order! Order!

1690 **Hon. Chief Minister:** And I am saying to you, in previous answers to previous questions, that has already been answered and you have forgotten, like you have forgotten the estates!
Go back and look at the *Hansards*!

1695 **Hon. D A Feetham:** And I am suggesting to you that you make things along as you go along! That is the problem with you.

Mr Speaker: Order! Order! Order!

1700 **Hon. Chief Minister:** And I would suggest many more things to you about what it is that you do!

Mr Speaker: Order! Order! Order!

That question has been put. An answer has been provided. Another question, if necessary, but not shouting across the floor, 'You have' or 'You haven't'.

1705 Next question.

Western Beach pollution Update on resolution

1710 **Clerk:** Question 741, the Hon. S M Figueras.

1715 **Hon. S M Figueras:** Can the Minister for the Environment report such developments as may or may not have occurred in relation to the resolution of the Western Beach pollution issue, further to recent questions and discussions in this House on the matter?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

1720 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Mr Speaker, there have been no further developments to report at this stage, but the Government is continuing to pursue alternatives to attempt to resolve the matter as soon as possible.

1725 **Hon. S M Figueras:** Perhaps the Minister... I have to say I am obviously, as I imagine many of those concerned individuals listening in will be, I am quite disappointed by the answer, because this is a matter that has been going on now for some time. The Government has been in charge of resolving this since 9th December 2011 and whilst it has been acknowledged in this House by myself and by my learned Leader of the Opposition in debates with the Hon. the Chief Minister, it is a complicated issue, given its international dimension and the fact that it is out of our control, however, the Minister has assured us on a number of occasions that it is being dealt with as a matter of the highest priority, because certainly, I think there is agreement across the House that it is a matter of the highest priority.

1730 I recall that the latest position was that it was with the legal team that was assessing its options. Is the Minister able to provide any kind of update in relation to *that* process, given the fact that it has been a couple of months since we last discussed it?

1735 **Hon. Dr. J E Cortes:** Mr Speaker, I can report that fortunately, the levels of pollution at Western Beach this summer have been totally acceptable, or certainly within the acceptable limits.

1740 Mr Speaker, there are obviously legal implications to this, which, as I said in my answer, Government is continuing to pursue, but because of the sensitivity of this, it is not something that I would like to say here in public, but I am more than willing to share with my hon. Friend outside the session in the lobby.

Hon. S M Figueras: I am grateful for the offer, one which I shall certainly take up.

**Jellyfish in Gibraltar waters
Management of issues**

1745

Clerk: Question 742, the Hon. S M Figueras.

1750

Hon. S M Figueras: Yes, Mr Speaker, Can the Minister for the Environment provide further detail of advice sought, if any, in relation to the various issues that have arisen from the prevalence of jellyfish in our waters in recent months and, in particular, whether the Government is considering taking any specific action in the management of this issue beyond raising public awareness?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

1755

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, the Department of the Environment obtained the advice of marine biologists and in-house environmental scientists regarding the recent upsurge in jellyfish number in our beaches. The advice received is consistent with published scientific literature, in that outbreaks of jellyfish numbers, particularly the 'mauve stinger', will continue into the foreseeable future.

1760

The accelerating degradation of the Mediterranean from overfishing, loss of predators such as marine turtles, eutrophication, decreased oxygen, climate change, and species introductions is believed to be expanding the problem of increased jellyfish numbers.

1765

In relation to any possible actions that can be undertaken, the Gibraltar Tourist Board, in close consultation with the Department of the Environment was specifically tasked with identifying possible measures to reduce jellyfish numbers at our beaches. Proposals have now been received from two local companies, which are currently being considered by Government.

1770

Furthermore, the Department of the Environment will continue with the Gibraltar Tourist Board to explore measures that could ameliorate the situation for the start of the next bathing season in 2013, apart from raising public awareness.

1775

Hon. S M Figueras: Mr Speaker, I am grateful for the answer. Is the Minister able to provide us with any more detail about specifically the last part of his answer and the measures that are being contemplated to ameliorate the situation before the start of the next bathing year, which is essentially where I was going fundamentally with the question?

1780

Hon. Dr. J E Cortes: Mr Speaker, a number of possibilities have arisen and in fact were considered this summer, including one which was discarded because clearly it would not have had a significant effect, which was the removal of some jellyfish, because with the numbers that there were in the region, no matter how many we removed from near our beaches, there would have been more coming in very, very quickly.

1785

One consideration that has been... one possible measure that is being considered – and as I say, it is being considered only – is the provision of exclusion nets to keep jellyfish out of parts, at least particular parts of our beaches, so that they cannot come in and have relatively safe bathing. This is similar, although at a very different scale, to shark exclusion that is done in other parts of the world.

1790

Hon. S M Figueras: And just by way of one final supplementary, more for clarification than for anything else, is this something that will continue to be considered and the policy of the Government is to pursue this, if the situation gives rise to the need for it?

1795

Hon. Dr. J E Cortes: Indeed, Mr Speaker, in the likelihood that, because of the degraded state of the Mediterranean, for all the reasons that I have mentioned, this could continue for a few years to come, this is something that we are already considering, with my hon. Colleague Mr Costa, in advance of next year's bathing season.

**Barbary Macaques
Number exported since July**

1800

Clerk: Question 743, the Hon. S M Figueras.

Hon. S M Figueras: Can the Minister confirm whether any Barbary Macaques have now been exported since I last asked a similar question on this matter during the July session of Parliament, specifically Question 621/2012?

1805 **Clerk:** Answer, the Hon. the Minister for Health and the Environment.

1810 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Mr Speaker, no, sadly no Barbary Macaques have been exported since the last Parliament session. The International Primate Protection League and the Born Free Foundation are still pursuing the possibility of finding locations willing to accept monkeys from Gibraltar.

1815 **Hon. S M Figueras:** Is the Minister or has the Minister been made aware by either the International Primate Protection League or Born Free Foundation of any avenues specifically that are being explored into which *some* inroads have been made in relation to their export?

Hon. Dr. J E Cortes: Yes, Mr Speaker, in fact I have been in discussions for some time now. There is a possibility of one centre in the Netherlands which specialises in the conservation of Macaques and we are discussing various possibilities with them.

1820 **Hon. S M Figueras:** Is the Minister at liberty to say the numbers of apes we would be looking at in the Netherlands option?

1825 **Hon. Dr. J E Cortes:** Approximately, in multiples of 30. They would be whole groups and it would either be one group or two groups; I doubt whether three, so it would be 30 or 60 or thereabouts. But we still do not have confirmation of destination.

Hon. S M Figueras: And finally, Mr Speaker, is the Minister able to provide us any kind of indication as to how long he expects this particular exploration of an option may take?

1830 **Hon. Dr. J E Cortes:** No, sir.

1835 **Thinking Green Conference
Fees for former US Vice-President Al Gore and Juan Verde**

Clerk: Question 744, the Hon. S M Figueras.

1840 **Hon. S M Figueras:** Yes, Mr Speaker, can the Minister for the Environment please provide details of the anticipated fees for attendance at the Thinking Green Conference in October of this year by former US Vice-President Al Gore and Juan Verde as key note speakers?

Clerk: Answer, the Hon. the Minister for Health and the Environment

1845 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Mr Speaker the cost for Vice-President Al Gore's participation in the Conference is subject to final adjustment. It is anticipated that this sum will be paid by third party sponsorship of the event and not by Government.
A full account of the cost of the event will be published after it has been held.

1850 **Hon. S M Figueras:** I am grateful to the Minister for that answer, although, however, it is not the answer I was seeking from the question.

1855 I understand that the cost will need to be adjusted because I have certainly, since I asked the question, become aware of the fact that there will be tickets sold and that therefore the cost will be adjusted by whatever income that may generate. The question itself was whether he was able to provide me with an estimate of the fees for attendance by the two speakers.

Hon. Dr. J E Cortes: Mr Speaker, as I said, this is still subject to final adjustment.

1860 **Hon. S M Figueras:** Mr Speaker, can the Minister confirm whether there is a ball park? I imagine that before signing a contract or even pencilling in the date for the arrival of a former US Vice-President there must have been some kind of ball park agreement of cost.

1865 **Hon. Dr. J E Cortes:** Mr Speaker, because we are at the moment still sealing sponsorship deals, it is a matter that I think I should not go further on, at this stage, until we seal this and a full adjustment has been made. As soon as it is done, I am very happy to make that information available.

Hon. S M Figueras: Mr Speaker, I am grateful and I am fully understanding of the situation that the Minister is alluding to.

1870 However – and I shall not press further than this supplementary – whilst I understand that money secured by sponsorship will adjust the ultimate cost to the Government of the project, the attendance fee is something that will be set by the speakers in question. I note that the Minister does not want to share that figure in the House this afternoon, but I wonder whether the Minister would be as kind as to offer that information on a confidential basis, behind the Speaker’s Chair.

1875 **Hon. Dr. J E Cortes:** Yes, the information will be shared and, obviously, as I said earlier, a full account of the costs will be published. I am very happy to have a conversation with the hon. Member opposite, who I know directly is looking forward to the event.

1880 **Hon. S M Figueras:** Indeed, Mr Speaker.

**‘Dog Parks’ in residential areas
Progress**

1885 **Clerk:** Question 745, the Hon. E J Reyes.

1890 **Hon. E J Reyes:** Mr Speaker, can Government state what progress it has made to date in respect of its manifesto commitment to provide ‘Dog Parks’ in residential areas, so as to prevent the problem of indiscriminate dog fouling?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

1895 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Mr Speaker, I think this is my first response to a Question from Mr Reyes, so I just highlight that. We go back a long way.

The Government has produced a proposed design for the first dog park in an area west of Harbour Views which has been presented to the Estates Management Company and will shortly be tabled at the Development and Planning Commission.

1900 This project will be the first test case and further ones will be delivered subsequently. Additionally, there are plans in hand to provide a dog park of some substantial size in the reclamation area that can be used by any dog owner wishing to provide exercise to their dog.

1905 It must be clear that dog parks are *not* designated dog fouling areas, so these are not being created as a means of preventing the indiscriminate dog fouling problem. They are meant as areas where dog owners can allow their dogs to exercise freely in a controlled environment.

The problem of indiscriminate dog fouling is being tackled separately, through an awareness and subsequent fining campaign, which will commence in early October this year.

Hon. E J Reyes: Thank you, Mr Speaker.

1910 My choice of wording here of the ‘provision of dog parks in residential areas so as to prevent the problem of indiscriminate dog fouling’ is taken directly verbatim from the manifesto, which is why I chose those words so there would not be any misunderstanding.

Can I press him, I think the Hon. Minister said that they are in the process now of presenting to the DPC a possible project West Harbour Views, did I hear correctly?

1915 **Hon. Dr. J E Cortes:** Mr Speaker, I said that it is being presented to the management company and would then be tabled at the DPC.

1920 **Hon. E J Reyes:** So subsequent to that, Mr Speaker, will due notice be given to the general public of when the DPC is to deliberate on this matter? Because I must declare my vested interest. I live within the Harbour Views Estate and I know that a very, very large number – and I wish to underline and put in bold print, ‘*large number*’ – of residents have already expressed great concern about the dog park, noise pollution, not to include the smell pollution as well, that could possibly come out of it, so I want to make sure that the residents of the area may sleep soundly tonight, knowing that due notice will come out, so that they may make their due representations, as residents of that area.

1925 **Hon. Dr. J E Cortes:** Mr Speaker, in this new era of democracy that Gibraltar has entered on 9th December, all documents and the Agenda of the Development Planning Commission are published in

advance on the website, so clearly they can sleep peacefully tonight, hopefully without too many dogs barking.

1930

Hon J J Netto: Mr Speaker, if I may, first of all let me declare an interest here, because I do have a dog and I do live in Harbour Views.

1935

Now, unfortunately, there are many dog owners who do not actually clean up after the dog has done its business. Unfortunately, I have to say that the whole perimeter pavement around Harbour Views is in a *dreadful, dreadful* state of affairs, which is really bad.

I think the Hon. Minister did say that he was going to start a campaign of ensuring that the law is complied with. I congratulate him on that and, by all means, do start in that particular area, because there are some good owners who do the correct thing. So, that is in relation to that.

1940

But the other thing is that this particular area, the dog park which he mentioned, is that the one which is adjacent to the football/basketball pitch in front of the Promenade?

1945

Hon. Dr. J E Cortes: Mr Speaker, I believe it might be, but I am not absolutely sure. I have not been dealing with this personally. It has been officials dealing with it, but I can confirm that and advise the hon. Member.

1950

I believe, some people I know who live in the area have told me that the cleaning of the area has increased recently, after they made representations. In any case, I can confirm that, early in October, we will be starting an awareness campaign which involves the Police, the Environmental Agency, the Department of the Environment, the responsible pet owners, the veterinary clinic and Rocky, who is our dog who will be leading this campaign. We will have awareness leaflets on television and an awareness day in October, where I think the whole question of dog fouling will be put across, I think in a humorous manner but taking the message home that we really have to be responsible dog owners.

1955

Procedural

Clerk: Question 746, the Hon. Mrs I M Ellul-Hammond.

1960

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health explain –

Chief Minister (Hon. F R Picardo): Mr Speaker, sorry, if the hon. Lady will allow me, is this a convenient moment to perhaps break for 15 minutes?

1965

Mr Speaker: Is that convenient to all hon. Members?
The House will recess for 15 minutes.

The House adjourned at 5.30 p.m. and resumed its sitting at 5.55 p.m.

1970

EDUCATION, FINANCIAL SERVICES, GAMING, TELECOMMUNICATIONS AND JUSTICE

1975

Cover for maternity/paternity leave Number of teachers for year

Clerk: Question 798, the Hon. Mrs I M Ellul-Hammond.

1980

Hon. Mrs I M Ellul-Hammond: Mr Speaker, under ‘Cover for Maternity/Paternity’ in this year’s Estimates Book on page 64, £490,000 is earmarked; can the Minister for Education explain how many teachers on maternity or paternity leave does this reflect for the year?

1985

Clerk: Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, in the same way as a Question which was asked earlier, this really is a matter

which should have been raised in the course of the Committee Stage of the debate on the Appropriation Bill.

1990 Nonetheless, I will explain that the provision of £490,000 was based on an estimate of 20 teachers taking up their full maternity entitlement for 2012-13. This figure also includes cover for paternity leave entitlement for teachers.

1995 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, considering that over 40 teachers on the supply list have been employed, are there enough supply teachers to cover for these maternity and paternity leave absences, with enough supply teachers left to cover routine absences?

2000 **Hon. G H Licudi:** Mr Speaker, the result of the engagement of the 47 new teachers from the supply list is – I do not have the exact number – but I understand there are well over 40 teachers still on the supply list. On the basis that we have estimated 20 teachers on maternity leave at any particular time, there are still teachers available on the supply list to cover other absences and we have got to remember, Mr Speaker, that it is a matter of policy of this Government that supply workers are only used to cover *temporary* absences and not to cover vacancies. If a vacancy arises, then the vacancy will be advertised and will be filled in the normal way.

2005

Examination Expenses Increased forecast outturn

2010

Clerk: Question 799, the Hon. Mrs I M Ellul-Hammond.

2015 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, in this year's Estimates Book, on page 65, an increase of £275,000 from last year's forecast outturn is assigned to Examination Expenses. Can the Minister for Education explain why there is such an increase?

Clerk: Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

2020 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, the same issue arises in respect of the Committee Stage of the Appropriation Bill.

2025 However, I can confirm that the increase of £275,000 from last year's forecast outturn is attributed to a general increase in the fees charged per subject and entry. Other general costs, such as exam software upgrades have also increased.

GDC staff member for training purposes Grade and duties

2030

Clerk: Question 800, the Hon. Mrs I M Ellul-Hammond.

2035 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, on page 65 of the Estimates Book under 'Other Charges – Contribution to GDC', £53,000 is assigned to a GDC staff member for training purposes, as explained by the Hon. Minister for Education at the Committee Stage of the Appropriation Bill. Can the Minister for Education tell us what the grade of this post is and the duties assigned to it?

2040 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

2045 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, the post is Bleak House Administrator, which is a GDC Grade 5 post. The core duties include the management and administration of Bleak House.

I do in fact have further details of the job description, where the role is described as:

'To be responsible for the management and administration of all activities taking place within the institute'

– within Bleak House. The duties are:

2050 'To be responsible for the administration and management of all professional and vocational courses taking place in Bleak House; to provide all relevant resources for such courses; to liaise with the training officer for the provision of courses within the institute; to liaise with external training providers with a view to accommodating their needs within the institute; to manage industrial and non-industrial staff at Bleak House; to ensure that Bleak House facilities are kept in a fit state; to undertake any other duty required by the Director of Education commensurate with the grade.'

2055

Hon. Mrs I M Ellul-Hammond: Mr Speaker, is there a course or required specific qualifications for this particular post that this individual needs to undertake, in order to offer the duties that have been assigned to him or her?

2060

Hon. G H Licudi: The person who is in post... Is the hon. Member asking what qualifications the specific person in post has, or what qualifications were required when the post was advertised?

Hon. E J Reyes: Mr Speaker, £53,000 does seem a considerable sum of money –

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Hon. G H Licudi: It is not a salary.

Hon. E J Reyes: No, £53,000 is the cost of the training, isn't it?

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Hon. G H Licudi: Mr Speaker, the £53,000 that the hon. Member refers to appears on page 65, under 'Contribution to Gibraltar Development Corporation – Staff Services'.

If the hon. Member were to have looked at page 156 of the Book, which is Appendix B, which deals with the Gibraltar Development Corporation, there is a provision there which says, 'Head 17 – Education – Salaries – £44,000.' So the salary... This is a GDC Grade 5 employee; that is the equivalent of an SEO, as I understand it, and £44,000 is within the scale of the SEO. In fact, I understand that the SEO goes up to about £47,000, but because this is a contribution to the GDC, there is also an additional £9,000 in respect of social insurance and pension contributions in respect of that particular post, but the salary is in fact £44,000, and it is shown in the Book.

2075

2080

Hon. E J Reyes: Thank you for that, Mr Speaker. It does clarify. I clarify for the Hon. Minister: we were a bit under the impression that it was training that was going to be undertaken by the individual. No, so it is a contribution that offsets that. It does not necessarily mean that the individual is going to have to undertake any further training herself. That person was chosen and it is just a contribution for services really rendered, that is, it's services done to the Department of Education, hence why the virement of sums, yes?

2085

Hon. G H Licudi: Yes, Mr Speaker, it is a contribution by the Government under the budget of the Department of Education. That is why it appears under Head 17. It is a contribution to the GDC in respect of *all* the costs attributed to that particular post.

2090

Hon. E J Reyes: Most grateful, Mr Speaker. It has certainly clarified the misunderstandings we had from this side. Thank you.

2095

**Earlier opening for first schools
Women's Association desire for 8.30 a.m. start**

Clerk: Question 801, the Hon. Mrs I M Ellul-Hammond.

2100

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Education tell us if he concurs with, or will consider, the Women's Association desire to see First Schools open their school gates 15 minutes earlier, at 8.30 in the morning?

2105

Clerk: Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

2110

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, the Government has received representations from the Gibraltar Women's Association and from a number of working parents expressing a desire to see First Schools open their school gates at 8.30 a.m. The Government is currently considering those representations.

2115 It should be noted that opening schools at 8.30 a.m. does not simply involve opening the school gates. It requires that pupils arriving at school should be supervised during this time. The Government is taking on board the views of all stakeholders and is analysing the possible educational impact of this move, before arriving at a final decision on this matter, in consultation with the Gibraltar Teachers' Association.

**Bayside School students
Repeating failed GCSE core subject exams**

2120

Clerk: Question 802, the Hon. Mrs I M Ellul-Hammond.

2125 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Education advise whether Bayside School students, who have failed their GCSE core subjects, are able to repeat these exams after a year of study, as per the set up at Westside School in their year 12G?

Clerk: Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

2130

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, the Department is working closely with the senior management team at Bayside School, so that students who fail their GCSE core subjects are afforded the same opportunities as Westside students.

2135

Clerk: Question –

2140 **Hon. E J Reyes:** Sorry, Mr Speaker, yes, I think the Hon. Minister will agree, what happens at the moment is if you are female, it means you can go back to your school to resit, for example, mathematics and English and if you are male, Bayside School says it cannot cater for that.

I understand the Minister wants to enter into discussions with the professions and so on. Does he have a target date of when this might be achievable?

2145 **Hon. G H Licudi:** Yes, Mr Speaker – I may have misunderstood the supplementary – this is not something that we are discussing with a view to considering. The matter has been considered already and the answer that I have given is that we are already working closely with the management team at Bayside, so that those students *are* afforded the same opportunities.

2150 It is my own view that it should not matter, when it comes to getting the best possible educational experience, whether you are a boy or a girl. It should not matter at all, but this is a system that we have inherited. This is not a system that we would certainly put in place. It is not intended to make this political or to start making allegations as to it is your fault or it is our fault, but this is a system that we have inherited. I am certainly, as Minister for Education, not happy at all with students in one school getting some benefit which students in another school do not get.

2155 Therefore, the instruction has been and the discussion, in consultation with the professionals of the Department and now with the management team at Bayside, is that students from both schools have to have the same opportunity. It was not possible for logistical reasons, because the matter was raised during the course of this year, it was not possible to put together the arrangements for September of this year, but I am certainly intending that this should be in place by September of next year.

2160 **Hon. E J Reyes:** Thank you for that, Mr Speaker. This side of the House concurs completely with the Minister for Education and he can count on the full support of us to make this a reality as soon as possible.

2165 **Hon. G H Licudi:** Thank you very much.

**Excessive noise from motor vehicles
Persons reported and prosecutions**

2170

Clerk: Question 803, the Hon. S M Figueras.

2175 **Hon. S M Figueras:** Mr Speaker, can the Government provide details to this House of the number of persons reported for process for offences of excessive noise in the context of motor vehicles, broken down by vehicle type and source of noise during the last 12 months, broken down by month and compared with the number of successful prosecutions during the same period, expressed on a month-by-month basis?

2180 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, the information requested by the hon. Member is set out in a schedule that I now hand to him.

SCHEDULE TO QUESTION 803/2012

Month	Offence	Type of Vehicle	Number of Cases	Prosecution Outcome
Jul-11	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	4	1 caution
				3 pending court proceedings
Aug-11	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	27	1 caution 1 withdrawn in court 25 pending court proceedings
Sep-11	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	4	All pending court proceedings
	Defective Exhaust	M/cycle	1	
	Excessive Noise	M/cycle	1	
Oct-11	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	6	All pending court proceedings
	Defective Exhaust	Car	2	
	Defective Exhaust	M/cycle	2	
	Excessive Noise	Car	2	
	Excessive Noise	M/cycle	5	
Nov-11	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	11	All pending court proceedings
Dec-11	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	2 Cars	2	All pending court proceedings
	Defective Exhaust	M/cycle	1	
	Excessive Noise	M/cycle	1	
Jan-12	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	7	All pending court proceedings
	Defective Exhaust	M/cycle	2	
	Excessive Noise	M/cycle	1	

Feb-12	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	2 Cars	2	All pending court proceedings
	Defective Exhaust	Car	1	1 caution
	Defective Exhaust	M/cycle	2	2 pending court proceedings
	Excessive Noise	M/cycle	4	All pending court proceedings
Mar-12	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	4	All pending court proceedings
	Defective Exhaust	M/cycle	2	
	Excessive Noise	M/cycle	5	
Apr-12	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	9	All pending court proceedings
	Defective Exhaust	Car	1	
	Defective Exhaust	M/cycle	2	
	Excessive Noise	M/cycle	5	
May-12	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	3	All pending court proceedings
	Defective Exhaust	Car	1	
	Defective Exhaust	M/cycle	2	
	Excessive Noise	M/cycle	6	
Jun-12	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	5	All pending court proceedings
	Defective Exhaust	M/cycle	2	
	Excessive Noise	M/cycle	6	
Jul-12	Operating a Loudspeaker 2100hrs & 0800hrs (Public Health Act - Annoyance)	Car	1	All pending court proceedings
	Excessive Noise	M/cycle	1	

Total Operating a loudspeaker from cars (annoyance)	85
Total Defective Exhaust Cars	5
Total Defective Exhaust M/cycles	16
Total Excessive Noise Cars	2
Total Excessive Noise M/cycles	35

2185 **Hon. S M Figueras:** Mr Speaker, I will just start my line of supplementaries which will not be too long, with one relating specifically to the information that I have just had a very quick opportunity to look at. That is at the total at the very end of the schedule of information, there is a very helpful totalling of the offences. The total for defective exhausts on motorcycles is 16 and the total for excessive noise from motorcycles is 35.

2190 Is the Minister in a position to explain what the total other excessive noise from motorcycles may be down to? I know he may not, but if he is, I would be grateful for the assistance.

2195 **Hon. G H Licudi:** I am afraid I cannot help him very much, other than, in the schedule, there is a distinction drawn in respect of motorcycles between defective exhausts and excessive noise. I do not want to speculate, but one can speculate that a motorcycle might make excessive noise without necessarily having a defective exhaust.

I can find out, if the hon. Member really wants me to, (**Hon. S M Figueras:** Yes.) but I do not have the information.

2200 **Hon. S M Figueras:** Yes, I cannot imagine there would be that loud a turn or indicator signal! (*Interjection*)

2205 I am grateful for his attempt to assist and would be grateful for some clarification on that, insofar as it may be helpful, because the point of the question, Mr Speaker, is that I am approached regularly by concerned individuals and note myself that there seems to be an increasing number... well, I do not know whether perhaps if 'increasing' number is the correct way to describe it, but a very significant instance of

very, very loud motorcycles in particular, sporting after market exhausts which cause what is to the minds of these concerned individuals, and certainly myself, excessive noise.

2210 Is the Government in a position to explain what its policy is in relation to this, specifically in relation to this trend that seems to have emerged in recent times for excessively loud exhausts which are not necessarily defective?

2215 **Hon. G H Licudi:** Mr Speaker, we do not have any particular policy on that. The matter simply has not been brought to my attention as being an area of concern. If the hon. Member tells me that there are hundreds or thousands of motorcycles out there making this excessive noise, then it is a matter that we would look at.

2220 What we do have in respect of excessive noise by motorcycles, over a period of one year, in fact the information provided spans to 13 months, because it starts in July 2011 and ends July 2012 inclusive of the two July's – so it's 13 months – there are 35 reports over 13 months. I am not sure whether we can classify that as a major problem that needs to be looked at as a matter of policy or not. But if the hon. Member tells me of different specifics as to the nature of the problem, I am happy to discuss that with the Police.

2225 **Hon. S M Figueras:** Yes, Mr Speaker, I am grateful for the Minister's intervention. The total amount of 35 certainly, in the context of 13 months, does not strike one as a worrying figure at all. However, what I would say to the Minister – and perhaps this will assist – is that some of the concerned individuals are police officers, who explain that the issue is that these exhausts are not defective; that they are designed in a way that they are indeed louder, and that – (*Interjections*)

I can wait for the Ministers to confer.

2230 What I am given to understand, Mr Speaker, is that these exhausts are not defective in any way but can be modified in a very, very simple way so as to arguably increase performance or make more noise, which is the net effect of making that very simple modification, and that in instances, if it is not the trend, upon reporting for process for excessive noise, which may be what it is in fact referring to, that schedule, – excessive noise – by the time the noise can be measured at the Test Centre, which I believe is the manner in which these matters are dealt with and assessed – and I am happy to be corrected if I am wrong

2235 – the simple modification can be undone, so as to avoid the detection.

This is the issue that perhaps you have not yet been made aware of. It is clear that you have not. I wonder whether the Minister will be happy to consider reviewing the situation, if I can bring some more information to his attention on this matter.

2240 **Hon. G H Licudi:** Yes, Mr Speaker, I will do that in conjunction with my hon. Colleague, the Minister for traffic, who tells me that, in fact – and I did not know this – when these vehicles are made, then the motorcycle or the car is in fact referred to the MOT Test Centre for some sort of [*inaudible*] –

2245 **Hon. S M Figueras:** Testing, yes.

Hon. G H Licudi: Whether there is any power to actually undo what has been done... There is a power to report somebody in respect of an offence. The matter then is reported for process and ends up in the Magistrates' Court. The court will have whatever powers it has in respect of sentencing for that particular offence.

2250 But off the top of my head, I cannot think that there is any power for members of the MOT Department simply to rectify something that has been done privately –

Hon. S M Figueras: Perhaps the Minister will give way?

2255 **Hon. G H Licudi:** – but it is something that perhaps we can look at.

2260 **Hon. S M Figueras:** Yes, in fact there is, Mr Speaker, a recommendation that was made to me, that was mentioned to me in passing and that was that the issue may well be resolved, by the acquisition by the relevant authorities of a device that can measure the noise level on the spot. That was one of the suggestions that was made.

I understand that we are not going to get any further with this, given the fact that the Minister is certainly not aware of it and I understand that fully. I will be happy to continue this conversation outside the Chamber to see whether perhaps a solution can be reached.

2265 **Hon. D J Bossino:** Mr Speaker, just if the Minister could assist me in understanding the schedule which he has kindly passed over to the Opposition, and that relates to the description under the column entitled 'Prosecution Outcome'. Do I take it that all 'pending court proceedings' – or more particularly,

2270 pending court proceedings which seems to the description which applies to almost all of the offences – means that technically, it is before the court, but it is awaiting a court hearing? Is that a proper interpretation?

Hon. G H Licudi: That is correct.

2275

**Offence of feeding apes
Persons reported and prosecutions**

2280 **Clerk:** Question 804, the Hon. S M Figueras.

Hon. S M Figueras: Mr Speaker, can the Government provide details to this House of the number of persons reported for process for the offence of feeding apes over the last 12 months, compared to the number of successful prosecutions over the same period, also broken down on a monthly basis?

2285 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

2290 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, during the past 12 months, no persons have been reported for process for the offence of feeding apes.

Hon. S M Figueras: Mr Speaker, I fear I may be walking into a lion's den – *(Laughter and interjections)*

2295 **A Member:** An apes' den!

Hon. S M Figueras: Indeed, well, yes! I am sure apes are incapable of such vicious behaviour as I may well incur by embarking upon this supplementary journey!

2300 Is the Minister able to assist or has he any information that may enlighten us as to why there seems to have been a lack of enforcement of this particular provision in the last 12 months?

2305 **Hon. G H Licudi:** Mr Speaker, as the hon. Member well knows, matters of enforcement in respect of the law are matters for the Police, and if he does not know, the hon. Member to his left will clearly tell him. It is a matter for the Police to enforce the legislation.

What I can tell him is that the information I have is that during the relevant period, there have been no complaints by members of the public in respect of this particular offence – sorry, I should say, no complaints *to the Police* in respect of this particular offence.

2310 **Clerk:** Question 805, the Hon. J J –

Hon. D A Feetham: Can I just say to the Hon. the Minister for Justice that... I live up there, in the Upper Rock... I think it is actually, 100 yards from the apes' den. I drive up there every day, and I habitually see the feeding of apes by members of the public!

2315 **A Member:** You should report it. *(Interjections)*

Hon. D A Feetham: I do and in fact I have on a number of occasions stopped my car and actually told people –

2320 **A Member:** Citizen's arrest! *(Laughter)*

Hon. D A Feetham: Yes – a citizen's arrest! I have told people that that is not something that they ought to do.

2325 How far are we from a situation where the Government is going to perhaps have somebody up there who might help with this particular point? Because ensuring that if anybody does this kind of thing, that it is reported to the Police, or that by having somebody up there, obviously it is going to mean that this does not occur with the frequency that it does at the present moment.

2330 **Hon. G H Licudi:** Mr Speaker, I am not sure... I would have to take a reference of 'having someone up there', whether the hon. Member is suggesting that police officers should be permanently placed there or whether it is a matter of ape management. But the hon. Member who is responsible for the Upper Rock perhaps can enlighten us.

2335 **Minister for Health and Environment (Hon. Dr. J E Cortes):** Mr Speaker, the Macaque Management Plan is virtually complete and I am having meetings next week, which I hope will finalise it and that would include provision for supervision up on the Rock.

2340 As far as elsewhere in Gibraltar where it is just as illegal as on the Upper Rock, we will shortly be seeing some signs going up, advising the public that they are *not* to feed the monkeys. One takes the view that we should warn people, because it is even advertised abroad that people can come to Gibraltar to feed the monkeys. We need to make that perfectly clear to all to be fair, before the Police may or may not – it is entirely up to them – choose to take this up. But the signs will be going up in some parts of Gibraltar shortly.

2345 **Hon. J J Netto:** But, Mr Speaker, if I may, signs in the Upper Rock have been there for many, many years, and people have never paid...

Hon. Dr. J E Cortes: Mr Speaker, I said *other* than on the Upper Rock.

2350 **Hon. J J Netto:** It seems that people have never paid any notice whatsoever of the signs, regardless of the size of the board which is quite enormous.

2355 So the point that my hon. learned Friend was making is that if the Police for whatever operational reasons do not go to the Upper Rock to enforce the law as it stands, I think what he was hinting at was whether the Department of Environment would be employing some kind of wardens, which may have certain powers, just like traffic wardens have in relation to complying with certain traffic matters. I think that is what he was pointing at, and perhaps he could enlighten us whether this is in the pipeline to be done.

2360 **Hon. G H Licudi:** Mr Speaker, let me make one thing absolutely clear: I did not say what he suggests, that the Police do not go to any part of Gibraltar to enforce the law. (*Interjections*) He said, 'not go to the Upper Rock to enforce the law.' The Police do go wherever it is necessary –

Hon. J J Netto: For whatever *operational reasons*.

2365 **Hon. G H Licudi:** – in order to enforce the law. Sometimes there are complaints by members of the public. I note that the hon. Member seems to be suggesting or has suggested that he has seen offences being committed but he has not –

Hon. D A Feetham: Habitually, every single day.

2370 **Hon. G H Licudi:** Habitually, but he does not call the Police to report the offence. I do not know whether that makes him an accessory or anything like that, (*Laughter*) but that is a matter for his own conscience.

2375 But I just wanted to refute the suggestion that the Police do not enforce the law. It is a matter for the Police, how they enforce the law, but clearly if offences are committed, the Police will –

2380 **Hon. J J Netto:** Mr Speaker, if the Hon. Minister will give way, there are many good, operational reasons why the Police would not go up to the Upper Rock, either most days or some days. I am not questioning that; but the fact remains that a person is not there on a permanent basis, to enforce the legislation.

2385 Given that we have that and given that we know that apes should not be fed – which is not good for their health – the point should be whether we should have some other kind of presence there, in the form of wardens. Therefore, if this is something that the Hon. Minister for the Environment, who is keen to stand up and give us an answer, says is something that is in the pipeline, and if it is so, whether these wardens have certain powers to be able to fine people on the spot if they were to be feeding apes, or in fact contravene any other aspect of the Upper Rock.

Hon. Dr. J E Cortes: Mr Speaker, the hon. Member well knows, when he was my Minister for the Environment, during which there was a long and very cordial and, I think, fruitful relationship, this has always been a problem, which we are addressing in this Macaque Management Plan and which *will* be

2390 addressed, (*Interjection*) which I have said earlier on today and I have said on other occasions in Parliament.

I must add that zero charges, prosecutions, in nine months is probably statistically more significant than zero in 16 years, but in order not to blame it all on the previous Government, I think that since the law was passed prohibiting the feeding of apes in 1918, there have been three prosecutions. I suspect that
2395 that may largely be the cause of why we have problems with the macaques at this point in time, but obviously we are going back almost a hundred years.

Hon. D A Feetham: Yes, on that basis, nearly the entire community are accessories to a crime, because we have all probably seen it done!
2400

A Member: Indeed.

2405

**Juvenile crime
Details of under-18s in court**

Clerk: Question 805, the Hon. J J Netto.

2410 **Hon. J J Netto:** Can the Minister for Justice state how many juveniles below the age of 18 have appeared before the Courts of Gibraltar during 2012, broken down by months and including the following: their sex; their age; the charges; whether the Courts have found any of them guilty; and the sentence?

2415 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, the information requested, subject to what I will say in a moment, is set out in a table which I now hand to the hon. Member.
2420

The hon. Member asks in his Question for details concerning juveniles below the age of 18. The information provided in the schedule, however, deals with persons below the age of 17.

2425 Under the Criminal Procedure Act 1962, a young person is defined as a person who has attained the age of 14 years and is under the age of 17 years. A child is a person under the age of 14. A differentiation is therefore made, for the purposes of court and police records, of persons charged and appearing in court who are under the age of 17 on the one hand and those who are 17 and over on the other. That is why the information provided concerns persons below the age of 17.

2430 The position will be different once the Criminal Procedure and Evidence Act 2011 comes fully into force in early October 2012, which I know the hon. Member will be very happy about. Juveniles are defined in that Act as persons below the age of 18. It will therefore, as from then, be possible to provide hon. Members with details of all persons below the age of 18 who appear in court.

Mr Speaker, perhaps I should also – because I had some difficulty following the table originally, when I got it – explain to the hon. Member how the table actually works.

2435 The table is related to persons charged to appear. Although the Question relates to persons appearing in court, the table goes a little bit further and gives, in fact, a little bit more information than the hon. Member has sought.

2440 The hon. Member will see the first column is ‘Month’; the second column is the number of persons arrested; then the breakdown by age... males and females; and then the breakdown by age of all those persons arrested; and then we see the number of persons charged from those arrested. Clearly, the number of persons charged will not total the number of people arrested.

2445 In the first row, Mr Speaker, where it says ‘Possession of Drugs – 1’, ‘Taking a Conveyance – 2’, ‘Common Assault – 3’, that is the number of people. So he should not take it that there is a correlation between the age and the charge that is right beside it. They are totally separate and distinct columns. One gives the breakdown of age and the other one just gives the numbers of juveniles charged in respect of each of those particular offences.

In the final column, which talks about the sentence imposed if convicted, again, where it says ‘Conditional Discharge – 4’, it simply means that four of the people who were charged were given a conditional discharge, three were given fines and six are still pending in respect of court proceedings.

So that essentially explains how this table has been put together.

Schedule to Question 805/2012

Juveniles Charged to appear before the Juvenile Court - 1st January to 31st August 2012

Month	Number of Juveniles Arrested	Males	Females	Breakdown by Age	Juveniles Charged	If Convicted, Sentence Imposed
Jan-12	24	24	0	6 x 12yrs 2 x 13yrs 2 x 14yrs 6 x 15yrs 6 x 16yrs 2 x 17yrs	Poss of Drugs - 1 Taking a Conveyance -2 Common Assault -3 Obstructing Drugs Misuse Act -1 Poss of Tobacco -2 Robbery -4	Conditional Discharge -4 Fines - 3 (ranging from £100 to £500) Pending - 6
Feb-12	25	24	1	1 x 13yrs 1 x 14yrs 7 x 15yrs 8 x 16yrs 8 x 17yrs	Poss of Drugs -1 Common Assault -1 Robbery -1 Poss Offensive Weapon -3 Causing Damage -1 Theft -1 Handling Stolen Goods -1 Taking a Conveyance -2 Obstructing Police -1 Exporting Tobacco -1	Attendance Centre Orders -2 Fines -3 (ranging from £30 to £200) Pending - 8
Mar-12	18	17	1	1 x 12yrs 1 x 14yrs 5 x 15yrs 8 x 16yrs 3 x 17yrs	Poss of Drugs -2 Theft - 1 ABH -1 Taking a Conveyance -3 Burglary -1	Attendance Centre Orders -2 Fines -2 (ranging from £50 to £200) Pending - 4
Apr-12	20	16	4	4 x 13yrs 4 x 14yrs 4 x 15yrs 4 x 16yrs 4 x 17yrs	Obstructing Police - Drugs Misuse Act -2 Poss of Drugs -4 Violent Behaviour -2	Conditional Discharge -3 Fines -3 (ranging from £50 to £70) Pending - 2

May-12	21	16	5	6 x 13yrs 2 x 14yrs 4 x 15yrs 7 x 16yrs 2 x 17yrs	Poss of Drugs - 3 Theft of Motor M/C -2 C/Damage to vehicle -3 Arson not Endangering Life -1 Common Assault - 1	Attendance Centre Order - 3 Conditional Discharge - 1 Fines - 3 (ranging from £50 to £100) Pending - 3
Jun-12	20	18	2	5 x 13yrs 5 x 14yrs 4 x 15yrs 5 x 16yrs 1 x 17yrs	Failing to comply with Court Order - 2 Poss of Drugs - 2 Supplying Drugs - 1 Assault on Police - 1 Poss Offensive Weapon - 1 Poss Firearm / Ammunition - 2 Causing Damage - 1 Violent Behaviour - 1	Fines - 2 (ranging from £40 to £100) Proved No further penalty - 1 Payment of Compensation £250 and No Separate Penalty - 1 Probation Order for 12 months - 1 Pending - 6
Jul-12	12	12	0	1 x 12yrs 2 x 13yrs 1 x 14yrs 2 x 15yrs 4 x 16yrs 2 x 17yrs	Poss Prohibited Import - 1 Poss of Drugs - 2 Obstructing Police - Drugs Misuse Act - 1 Poss Commercial Quantity Tobacco - 1 Burglary - 1 Possession of a Firearm/ Ammunition - 1	Fines - 2 (ranging from £200 to £340) No separate Penalty - 1 Conditional Discharge 12 months - 1 Pending - 3
Aug-12	22	20	2	1 x 9yrs 3 x 13yrs 4 x 14yrs 10 x 15yrs 2 x 16yrs 2 x 17yrs	Burglary - 6 Poss. of Drugs - 5 Conduct Likely to Cause a Breach of the Peace - 2 Burglary Dwelling House - 2 Taking a Pedal cycle - 1 Taking a Conveyance - 1 Breach of Bail Conditions - 1 Theft - 2	Fined - 1 (£50.00) Pending - 19
Totals	Arrests 162	Male 147	Females 15	N/A	Juveniles Charged to appear in court - 90 NOTE - Additionally, out of the initial number of 162 juveniles arrested, the remaining 72 would have been dealt with by way of a formal Police Caution, Released from Arrest without charge, or in more recent cases, may still be on Police Bail.	39 Juveniles Dealt with - 51 are Pending

2450 **Clerk:** Question 806.

Mr Speaker: The Hon. Daniel Feetham.

2455 **Hon. D A Feetham:** Just in relation to July and also June of this year, it says 'Possession of a Firearm/Ammunition' on both. Are we talking in terms of possession of firearms... Are we talking possession of what is called in Spanish *escopeta de perdigones*, or are we talking about proper actual firearms, guns? Does he know that at all, or not?

2460 **Hon. G H Licudi:** The answer is that I do not know which specific weapon is referred to when it comes to possession of firearms, but 'firearm', as the hon. Member knows, under the Firearms Act, includes the air rifles and air pistols, so all those that the hon. Member has described includes 'firearms'. There is no distinction as to what is a proper firearm and what is not –

2465 **Hon. D A Feetham:** No, I do understand that.

Hon. G H Licudi: – but I do not have the information as to which particular category of firearm that charge relates to.

2470 **Hon. D A Feetham:** I am asking because it would be very worrying indeed if you had two separate incidents in June and July of possession of firearms other than pellet guns. It is not justified – it is against the law – but pellet guns are in a different category to other types of firearms that are far more serious.

2475 What about the possession of offensive weapons in June 2012 and also February 2012? Does he have any information about those, as to whether they relate to knives, for example, or does he not have any information?

Hon. G H Licudi: No, Mr Speaker, I do not have the specific breakdown of the type of weapon, but I am happy to find out for the hon. Member.

2480 **Hon. D A Feetham:** Please.

Domestic violence Breakdown of cases

2485 **Clerk:** Question 806, the Hon. J J Netto.

2490 **Hon. J J Netto:** Mr Speaker, can the Minister for Justice state if there have been any cases of domestic violence reported to the Royal Gibraltar Police since Question 163/2012 to date, showing the number of persons affected by such violence, their age, sex, the number of persons arrested and the persons charged?

2495 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

2500 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, a total of 60 reports of domestic violence, affecting 85 persons, of which 67 were females and 18 were males, have been made to the Royal Gibraltar Police from 1st February 2012 to 12th September 2012. A total of seven persons have been arrested of whom four have been charged.

The ages of the persons affected are shown in the schedule, which I now hand to the hon. Member.

Schedule to Question 806/2012

AGE OF PERSONS AFFECTED	NO. OF PERSONS
12 YEARS	1
16 YEARS	1
18 YEARS	4
19 YEARS	1
21 YEARS	4
22 YEARS	4
23 YEARS	2
24 YEARS	3
26 YEARS	5
27 YEARS	3
29 YEARS	4
30 YEARS	3
31 YEARS	1
32 YEARS	3
34 YEARS	2
36 YEARS	4
37 YEARS	3
42 YEARS	5
43 YEARS	4
44 YEARS	3
45 YEARS	6
46 YEARS	3
49 YEARS	4
51 YEARS	3
52 YEARS	4
53 YEARS	3
66 YEARS	1
67 YEARS	1
TOTAL	85

2505 **Hon. J J Netto:** Mr Speaker, looking at the schedule that the Minister has so kindly provided, I notice at the very top... and I would not want to, across the floor of the Chamber, necessarily go into the detail, but I notice that there is one person who is 12 years old and one person who is 16 years old. They may be, to some degree or other, affected as a result of this.

Is the Minister perhaps in a position to say whether, in relation to those two cases I have referred to, they required any kind of support perhaps from Social Services in relation to counselling or something of that kind, given the age of these particular persons who are affected?

2510 **Hon. G H Licudi:** Mr Speaker, I do not have that specific information, but I will check whether Social Services were involved and I will let the hon. Member know.

Mr Speaker: The Hon. Isobel Ellul-Hammond.

2515 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, yesterday the United Kingdom Government announced that the Home Office is changing the definition of domestic violence by including coercive control, such as psychological abuse, as part of it. Will the Government consider following this lead and updating Gibraltar's definition too?

2520 **Hon. G H Licudi:** Mr Speaker, we are fast, but not that fast. If this announcement was made by the UK, I certainly have not got any information or knowledge of that, but I am happy to look at what proposed changes are being made to see whether we can improve in any way our legislation in Gibraltar. Certainly every effort will be made to protect individuals from domestic violence.

2525 **Hon. Mrs I M Ellul-Hammond:** Yes, I am grateful for that. That is why I said 'would the Government consider'.

2530 **Sexual assaults on juveniles
Breakdown of cases**

Clerk: Question 807, the Hon. J J Netto.

2535 **Hon. J J Netto:** Mr Speaker, can the Minister for Justice state if there have been any persons during 2012 who have been charged with sexually assaulting juveniles, broken down by months, and provide the following information: (a) the possible number of victims suspected as a result of the charge of sexual assault; (b) how many cases have now been heard in our courts or are waiting to be heard; (c) of those heard, how many have now been concluded; and (d) the sentence of those found guilty?

2540 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

2545 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, from 1st January 2012 to 12th September 2012, a total of two persons have been charged with sexually assaulting juveniles. One person was charged in January 2012 with sexually assaulting one victim, and another was charged in March 2012 with sexually assaulting two victims. Court proceedings are still ongoing.

2550

Child pornography Breakdown of cases

2555 **Clerk:** Question 808, the Hon. J J Netto.

2560 **Hon. J J Netto:** Mr Speaker, can the Minister for Justice state how many persons have been charged with the illegal download of pornographic pictures of juveniles during 2012, broken down by months, and provide the following information: (a) the number of persons who have been found guilty in the courts and the sentence given; (b) the number of cases pending a hearing at the courts; and (c) the age and sex of those awaiting a hearing and of those found guilty?

2565 **Clerk:** Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

2570 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, from 1st January 2012 to 12th September 2012, one person has been charged with the illegal download of pornographic pictures of juveniles. The person concerned is a 67-year-old male. Court proceedings are still ongoing.

St Bernard's Hospital site Government's plans

2575 **Clerk:** Question 809, the Hon. Mrs I M Ellul-Hammond.

2580 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Development and Planning explain what plans the Government has for the old St Bernard's Hospital site that was earmarked by the former GSD Government as a joint first and middle school?

Clerk: Answer, the Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

2585 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, there are no concrete plans for the site as yet.

2590 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, in February, the Hon. Minister for Education answered to this Question that they were still considering various options. Can he say what those options are that are being considered?

2595 **Hon. G H Licudi:** No, Mr Speaker, the Government still has an open mind as to what those premises are going to be used for and is still considering a number of options. I would not like to give details of what those options are until we decide what we are going to do with that site.

HEALTH AND ENVIRONMENT

**Hospital meals
New arrangements**

2600

Clerk: Question 746, the Hon. Mrs I M Ellul-Hammond.

2605

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health explain the new arrangements for hospital meals and where the new kitchens will be sited?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

2610

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, the proposal presented by the Catering Department to revert to bulk meal service was approved and discussions with the relevant Departments have taken place in order to phase in this service. Introduction dates to the new services have not been established and agreed to date. The new Catering Facility will cater for bulk food distribution.

2615

A feasibility study to relocate the Catering Facility to St Bernard's Hospital has been commissioned and proposals for possible sites are being considered. The Government Architect will be presenting scheme designs shortly, and in fact I spoke to him yesterday and I expect them on Monday or Tuesday.

2620

Hon. Mrs I M Ellul-Hammond: Mr Speaker, does the Minister know what will be happening to the old kitchen site on the North Mole?

Hon. Dr. J E Cortes: No, Mr Speaker. No decision has been taken on that site.

2625

Hon. Mrs I M Ellul-Hammond: Mr Speaker, as part of this new meal service, will patients be given a choice of food, which they could order the day before, according to the dietary needs – for instance, vegetarian or diabetic, celiac or gluten free, or intolerant and so on?

2630

Hon. Dr. J E Cortes: That is the intention. The first step is to have the bulk service and once that is established, the intention is to do what should have always been done and that is to give the patients a choice.

**Nursing assistants and registered general nurses
Eight-month contracts**

2635

Clerk: Question 747, the Hon. Mrs I M Ellul-Hammond.

2640

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health advise how many nursing assistants and registered general nurses, as per the advert in February for their recruitment, are on the eight-month contracts as advertised, and is it the intention of the GHA to permanently employ such persons upon the successful completion of the eight-month contract?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

2645

Minister for Health and Environment (Hon. Dr. J E Cortes): Mr Speaker, the nursing assistant vacancies advertised internally in March 2012 were, as indicated in the advert, for appointment on indefinite permanent terms, and I can confirm that 18 appointments were made.

2650

Further vacancies were advertised internally in April 2012 on the same terms and conditions, and a further 14 appointments were made.

As far as the registered general nurse vacancies are concerned, these were advertised on a short-term contract for 10 months. One appointment was made and although it was the GHA's intention to permanently employ that person on completion of the contract, the appointee resigned shortly after.

2655

Hon. Mrs I M Ellul-Hammond: Mr Speaker, is this recruitment part of the GHA's drive to employ over 20 new nurses and increase the complement as announced during the Budget?

Hon. Dr. J E Cortes: Yes, Mr Speaker.

GHA review
Findings by UK consultants; recommendations

2660

Clerk: Question 748, the Hon. Mrs I M Ellul-Hammond.

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Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health explain what the overall findings of the GHA review by the UK consultants were and what measures will be taken to implement the recommendations?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

2670

Minister for Health and Environment (Hon. Dr. J E Cortes): Mr Speaker, the contents of the review will be made public shortly and will be considered by the Gibraltar Health Authority and GHA management with a view to preparing an implementation plan.

2675

Hon. Mrs I M Ellul-Hammond: Mr Speaker, when will the GHA be in a position to inform the people of Gibraltar as to the results of the review?

Hon. Dr. J E Cortes: There are meetings being held next week of both the Health Authority and GHA management in order to discuss a timeframe for this.

2680

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister say if part of the findings of the GHA review was to restructure the GHA's management?

2685

Hon. Dr. J E Cortes: Mr Speaker, the restructure of management is something that has been ongoing since... maybe not the 9th, but certainly 10th December. I have been involved in discussions with the Executive of the GHA and others.

I have, as this House is aware, also looked at models in other jurisdictions, so that partly this is happening anyway, but there are suggestions and recommendations in the Report which do have a bearing on the restructure and which will be taken into account, as this restructure is finalised.

2690

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister advise if part of the findings of the GHA review was that Dr McCutcheon should resign as Chief Executive of the GHA?

2695

Hon. Dr. J E Cortes: Mr Speaker, I want to resist... I have already offered information, but only in as far as there are recommendations on restructure, which will surprise no one, but I do not think that I should say anything further while the Health Authority and the management of the GHA have still not deliberated and considered this review. As it will be made public, then that information will be available shortly and I dare say more than likely before the next sitting of Parliament, and obviously then I would be willing and able to take questions.

2700

Health and Safety Committee of the GHA
Membership, qualifications and duties

2705

Clerk: Question 749, the Hon. Mrs I M Ellul-Hammond.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health explain who comprises the Health and Safety Committee of the GHA, what their qualifications are and what they do?

2710

Clerk: Answer, the Hon. the Minister for Health and the Environment.

2715

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, the Health and Safety Committee is comprised of the following staff members: Mr Chris Wilson, Director of Human Resources, who chairs representing the GHA; Evelyn Cervan, Deputy Director or acting Director of Corporate Services representing the GHA; Edward Holmes, Deputy Director of Nursing Services representing the GHA; Lloyd Ocaña, Craftsman who represents Unite, I believe, this is the staff side; Harold Zammit, Linen Supervisor, also Unite; Paul Tremayne, Emergency Medical Technician, also representing the Union; Darren Cerisola, Emergency Medical Technician, also representing the Union; Linda Castro, Dermatology Nurse Specialist, representing the Union; Marilyn Bramble, Nursing Assistant representing the Union; and Jane Marzan, a Personal Secretary representing the GHA.

2720 Their role is to conduct audits and inspections and address any issues that arise from these or otherwise brought to their attention.

2725 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, is any one of those in the Committee the Health and Safety adviser, or is that still being considered?

Hon. Dr. J E Cortes: Mr Speaker, this is a Committee that looks overall at Health and Safety issues within the GHA. None of them is specifically a or the Health and Safety adviser.

2730 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister explain how they assess risk assessments – how they are conducted?

2735 **Hon. Dr. J E Cortes:** Mr Speaker, that is not information I have available. I have explained who comprises, what they are and what they do in carrying out audits, but any further details I would need notice of.

Clerk: Question –

Mr Speaker: The Hon. Jaime Netto.

2740 **Hon. J J Netto:** Mr Speaker, first of all, the first comment I would like to put as a premise is that obviously one welcomes the fact that there is an established Committee in the GHA which is composed from management and the union in order to discuss and highlight issues in Health and Safety, and that in itself is a welcome step in the right direction.

2745 But as the hon. Member knows, back in February or March of this year, I did ask him specifically whether the GHA would consider having a permanent person qualified and specialised in Health and Safety as a Health and Safety adviser or officer, and at the time, the hon. Member did say that they were conducting a review of management needs in the GHA and he would certainly look into that.

2750 What I am about to ask him is that if he looks at the numbers of Health and Safety advising officers, as applied by the Hon. the Minister for Health and Safety in various Government Departments, Authorities and Agencies, he will be able to see from the previous list – and I say this because there is another Question on the Order Paper which may be updated from the old one that I have available – that there are some Government Departments... in fact, the City Fire Brigade has a specialised Health and Safety adviser officer and Customs has another one. Both Departments, both numerically in numbers and perhaps in the diversity of functions, do not come anywhere near the size of the GHA, both in people employed and the diversity of functions that the GHA provides across the board. So basically, I think it is not fair to say that the onus of responsibility for risk assessment and audits of this kind should go on people, who may be very qualified in management and be very good qualified in many things in the trade union field, but not necessarily be a specialist in Health and Safety, because in the UK, as far as I am aware, Health and Safety adviser officers do require to have a number of qualifications in that particular field.

2760 So what I am asking the Hon. Minister, and I am glad for your indulgence in my prelude to this, is whether he has considered the development of a particular post on a permanent basis for the GHA or whether this is in the pipeline?

2765 **Hon. Dr. J E Cortes:** Mr Speaker, I chair a complex large multi-disciplinary organisation that I have inherited and I suspect that I could probably list more shortfalls myself than anybody else present in this House at the moment. So the fact that there is no such adviser is certainly not of my making or this Government's making.

2770 Having said that, it is an important role to be played in any organisation of this size and it is certainly something that is being looked at.

Hon. J J Netto: So is it part still of this review that has not finished?

2775 **Hon. Dr. J E Cortes:** This review did not, as far as I can recollect, address specifically the Health and Safety issue. It was more looking at clinical governance and management procedures.

Hon. J J Netto: I am referring to the view that you referred back in February or March where the GHA was going to consider this.

2780 **Hon. Dr. J E Cortes:** Yes, this is being considered, but it is not part of the review that we were referring to earlier. It is being considered within management.

2785 **Hon. J J Netto:** Does the Minister have an indication by when they will be in a position to know whether they will or will not have a Health and Safety adviser or officer – which is another option perfectly legitimate for him to take, if he wants to take it? He can also say, ‘Well, look, I will satisfy my obligations under the management of Health and Safety legislation, not necessarily by employing someone permanently in the GHA, but by outsourcing the function to someone else, in support of the management who has the responsibility to comply with that.’ That is another option he can take. It is up to him.

2790 **Hon. Dr. J E Cortes:** Mr Speaker, that is already happening. The Government’s Health and Safety Inspectors have carried out Health and Safety audits of some parts of the GHA, including the kitchen facilities, which were found *very, very, very* lacking, and we have already taken steps to correct most of those faults which again I have inherited. It was a particularly scathing report that we got very early on, on the kitchen, but that is by the by.

2795 So they have carried out a number of Health and Safety inspections within the GHA, so it is not that nothing of this sort is happening. It is happening, but we have to consider, as the hon. Member rightly says, whether with the size of organisation we should have one person specifically employed for that or whether we should outsource, as we are already doing, with Government Health and Safety Inspectors.

2800 **Hon. J J Netto:** Mr Speaker, in this last statement that the Hon. Minister has just said, he said that a number of *audits* – in plural – have been carried out in GHA, and then he went on to mention the one in the kitchen. If I were to write – because obviously he would probably need notice of the question – to him asking him what other Departments within the GHA the audit has been done, will he be able to supply me with that information?

2805 **Hon. Dr. J E Cortes:** Certainly.

2810 **Cancer Nurse Specialists
Administrative support**

Clerk: Question 750, the Hon. Mrs I M Ellul-Hammond.

2815 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health advise if the Cancer Nurse Specialists will be receiving administrative support, as per the concern raised on page 9 of the Director of Nursing’s Report to 17th July GHA Board meeting?

2820 **Clerk:** Answer, the Hon. the Minister for Health and the Environment.

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, administrative support for the Cancer Nurse Specialists is being considered in the context of the overall need to boost specialist services, including nurse-led services. No details have yet been decided.

2825 In the interim, however, Nurse Management’s administrative staff has been providing support on an *ad hoc* basis.

2830 **Finance and Procurement Directorate
Management structure**

Clerk: Question 751, the Hon. Mrs I M Ellul-Hammond.

2835 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, does the Minister for Health concur with the Director for Finances’ statement on page 2 of his Report to 17th July GHA Board meeting which says:

‘The overall management structure within the Finance & Procurement Directorate, inclusive of this new middle management post, is not robust enough to effectively deal with a portfolio and budget of this size.’

2840 And, if so, what measures will the Minister implement to address this?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

2845 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Mr Speaker, I cannot, at this point in time, agree or disagree until such time as the recruitment of the HEO, expected shortly, takes place. Once the post has been filled for a period of time, I will be able to make an informed judgement. I do note however that again the Director of Finances makes this criticism of the structure left behind by the party opposite.

2850

**GHA Information Management and Technology
Permanent office space**

2855 **Clerk:** Question 752, the Hon. Mrs I M Ellul-Hammond.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health advise when the IM&T Department will be given permanent office space, as per the concern raised on page 8 of the Acting Director for Information Management and Technology's Report to the 17th July GHA Board meeting?

2860

Clerk: Answer, the Hon. the Minister for Health and the Environment.

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, the issue of space is being addressed in the wider context of the usage of space in the GHA as a whole.

2865

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister say what options are available for the additional space or relocation for this Department?

2870 **Hon. Dr. J E Cortes:** Mr Speaker, it is very complex. The St Bernard's Hospital, in the short time in which it has existed, has had different departments springing up in different areas and the layout is not altogether to my satisfaction.

2875 IM&T certainly have a very cramped situation, again which I found on visiting them actually, but there are other areas where the use of space is not really to my satisfaction and we are looking... We have a committee being put together to look at the whole issues of space in the context, of course, as well, of the new kitchen and the ambulance. This is all coming together to see how we can improve the efficiency of the use of space.

2880

**Ambulance facility
Project commencement and location**

Clerk: Question 753 the Hon. Mrs I M Ellul-Hammond.

2885 **Hon. Mrs I M Ellul-Hammond:** Then you have partially answered this Question already!
Yes, Mr Speaker, can the Minister for Health advise, as announced in his Budget speech, where the new larger Ambulance facility will be and when the project will commence?

Hon. Dr. J E Cortes: Mr Speaker – Sorry.

2890

Clerk: Answer, the Hon. the Minister for Health and the Environment.

Minister for Health and the Environment (Hon. Dr. J E Cortes): Sorry, Mr Speaker. Apologies to the Clerk for jumping my cue – I didn't used to do that too often in my acting days! (*Laughter*)

2895 The facility is, as I have already said, currently – (*Interjection and laughter*) I have no comment to make at this point! – being planned in conjunction with the redeployment of other services and all space issues within the GHA.

Clerk: Question –

2900

Hon. Mrs I M Ellul-Hammond: Mr Speaker, does the Minister have a time frame for the movement and creation of new areas and movement of facilities?

Hon. Dr. J E Cortes: Okay, again it is difficult because of the complexities and the number of different groups and patient groups and so on involved. But certainly, I would like to have a clear picture

2905 by the end of this calendar year, certainly of things like the kitchen and the ambulance which are a clear commitment. Certainly within this calendar year, we will know where we want everything to be.

2910 **Charities**
Encouraging contribution to Health Service

Clerk: Question 754, the Hon. Mrs I M Ellul-Hammond.

2915 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health explain further the statement in his Budget speech in relation to the work that charities do for the Health Service of, and I quote:

2920 'Rather than discourage their work and contributions, as was often the case before, I encourage it as adding value'

and give examples of where the GSD discouraged the work and contributions of charities?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

2925 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Mr Speaker, it is the GSD who could, of course, better answer this question. I can only go by personal experience in my last occupation, when I was discouraged by my Minister from approaching charities for contributions, as the then Chief Minister was not keen on these. It was only after a great deal of insistence on my part that I was able to access such funding.

2930 I am aware of at least one project that was executed in La Línea because it was not authorised by the then Government. Also, an offer from a charity to pay for the refurbishment of children's playgrounds was declined, which resulted in these then being paid for by the taxpayer and possibly being of lesser quality.

2935 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, and in relation to the Health Services?

Hon. Dr. J E Cortes: As I say, Mr Speaker, those are the examples that I can give from direct experience. I have heard of other instances, but my experience in the courts tells me that hearsay is not something that I should present in this House. I have been asked to give examples and examples I have given.

2940 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, could the Minister then clarify what he did say in his Budget speech and he said – I will read it –

2945 'I would like to take this opportunity to publicly express my appreciation for the work the charities, large and small, do for the Health Service. Rather than discourage their work and contributions, as was often the case before, I encourage it as adding value to our work and giving ownership to our people. Likewise, I would like to thank the Health Users' Forum...'

2950 So it was stated within the context of Health, within the Health section of your Budget and I am asking for examples of where charities within the spectrum of Health Services... where their work and contributions were discouraged by the previous Government?

2955 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I am delighted to give particular examples. I understand that a number of charities were prepared to purchase equipment and they were discouraged from doing so by the previous Administration. I am happy to give the hon. Lady the names of those charities and the type of equipment that we are talking about, outside the Chamber.

Hon. Mrs I M Ellul-Hammond: I appreciate that, thank you.

2960 **Hon. D A Feetham:** Can I ask the Hon. the Minister for Health, why does it necessarily follow that, simply because the Government took a decision as a matter of principle to fund the parks, that they would be of lesser quality than if they had been funded by a charity?

2965 **Hon. Dr. J E Cortes:** From personal experience, the only park that was in fact funded by that particular charity ended up being – coincidentally or otherwise – within the Alameda Gardens and, in fact in my opinion, it is of far better quality than the others that were put up in the rest of Gibraltar. As it was

the same charity that was going to fund them, I could only extrapolate that conclusion and say that they would have been of better quality. Certainly they would have cost the people less.

2970 **Hon. D A Feetham:** Certainly they would have cost the people less, yes, but why...? I do not understand... It is very easy to make these kinds of very broad sweeping statements in the House, which are difficult to actually verify. What is it that you are basing yourself on in terms of the quality of the parks that were the parks – ? *(Interjection by Hon. Chief Minister)*

2975 May I just ask the question? I know the Chief Minister is very eager to give instructions to his Minister.

Hon. Chief Minister: I can whisper as much as I like.

2980 **Hon. D A Feetham:** Well, yes but please pay me the courtesy, because of course, I am asking a question and you are whispering to your – *(Interjection by Hon. Chief Minister)* And you are still talking! Do you have something to say? I will sit down –

Mr Speaker: Order! Order! Order!

2985 **Hon. Chief Minister:** I do have something to say and I am grateful for the hon. Gentleman giving way.

I will talk to my Ministers and my Ministers will talk to me, as we desire and we will abide only by the rules of Mr Speaker and his rulings – something which I know Members opposite these days do not seem to like to want to do, and we will not have ourselves brought to order by the hon. Gentleman.

2990

Mr Speaker: May I invite the hon. Member who has asked the question, please feel free to ignore whatever is going on behind the scenes, if I might call it that, and proceed with your question and leave it to them to sort it out.

2995

Hon. D A Feetham: But Mr Speaker, I find it –

Mr Speaker: It may be disconcerting, but –

3000 **Hon. D A Feetham:** It is very off-putting and it is a matter of common courtesy that one obviously listens to the questioner, rather than be talking amongst themselves when I am asking the question. It is a matter of common courtesy, but look, the Chief Minister –

Mr Speaker: The Speaker does not really –

3005

Hon. Chief Minister: Mr Speaker, it is a matter of common courtesy. I agree it is a matter of common courtesy. It is a common courtesy that is not extended to us by the hon. Members opposite on a number of occasions and, therefore, the behaviour in this House has been that both sides have acted in that way.

3010

The hon. Gentleman does not like it when it happens to him. Well look, so be it. If he does not like it when it happens to him, he has got to put up with it, if the rest of us have to put up with it when it happens to us.

3015 **Mr Speaker:** The Speaker does not control the communications between Members of this House on either side between themselves, as long as such communication does not really interfere with the progress of proceedings. I appreciate that the hon. Member may find it off-putting and disconcerting. All I can suggest is ignore what is going on and just get on with the question. You might be asked to repeat the question, but that is the best I can help, really.

3020 **Hon. D A Feetham:** Mr Speaker, well, on that basis, I have no further questions. I have to say that it is *extremely, extremely* disappointing that Mr Speaker says that, because it is within Mr Speaker's authority that if you have a situation where somebody is asking a question to somebody opposite and effectively they are talking amongst themselves in a way that is discourteous to the person who is asking the question, that surely must be a matter for Mr Speaker. But I am not going to push it further.

3025 What I will say is this: that the Chief Minister is becoming as high handed as he used to accuse us when we were in Government of being. He is slowly morphing into the very thing that he always criticised.

Hon. Chief Minister: Mr Speaker, that is not a question; that is a remark made for the purposes of trying to persuade people who may be listening of a party political issue which he wants to raise.

3030

This is Question Time Mr Speaker. I complained about many things when I have been in Opposition. I stand by all those criticisms. Anybody who makes an objective assessment of what used to happen before and what happens today – an *objective* assessment, not the hon. Gentleman's subjective self-serving assessment – will realise just how different things are.

3035

I get up to answer that point, Mr Speaker, because the hon. Members think that they can use Question Time, by a side line sometimes, to make political points. They can try, Mr Speaker, but they will have political points made back at them.

Hon. Dr. J E Cortes: Mr Speaker –

3040

Mr Speaker: Order

Hon. Dr. J E Cortes: – if I may, there was enough of a question by the hon. Member for me to be able to extract what he was asking, so I would like at least to give an answer.

3045

Mr Speaker: I will allow the Hon. Minister to do so, but allow me just to... I do regret that the Hon. Daniel Feetham feels disappointed, but with respect, there are limits to what the Speaker's powers are. What I have never done to either side in the past is treat the members like school children, saying, 'Behave yourself, be quiet', and things like that. There have always been conversations held behind the scenes, so to speak, on this side and on that side, no matter who has occupied which side. It has always been the case.

3050

I do not propose at this stage of my tenure to reduce myself to being – no, sorry, wrong word – to *behave* like a school teacher. As long as the conversations that are held in private do not interfere with the proceedings, I have never found it necessary for me to interfere with those private conversations. I can only encourage a Member to proceed with his speech or his question and just ignore what is going on on the other side. That is my position and that is it.

3055

The Hon. the Minister for Health and the Environment.

Hon. Dr. J E Cortes: Mr Speaker, in my opinion, the playground that was created, or paid for by that charity is of better quality than the other playgrounds. It is my opinion only, based on what I have seen and on the experience that I had managing an area which included playgrounds, which were partly my responsibility and which used to sit approximately 15 metres from my office.

3060

Hon. J J Netto: If I may, the hon. Gentleman just said that the facilities, the attractions in the park by the Alameda is a much better quality than the one that the Government provides, yet, as far as I understand, he overruled a charity in one of the particular attractions because he felt they were not safe enough, and that particular attraction is now for the benefit of the people in La Línea, who have got it across the other side of the border.

3065

Hon. Dr. J E Cortes: Mr Speaker, that was an action which I took in a previous profession, as Director of the Botanic Gardens, for which I believe I am not answerable here.

3070

But in any case, the facts are not correct. The issues to do with that were purely related to the suitability of that facility in the heart of a botanic garden and nothing to do with anything else.

Mr Speaker: The Hon. Edwin Reyes.

3075

Hon. E J Reyes: Mr Speaker, I am grateful that the Hon. Minister did qualify his statement by the prefix that it was in his opinion. Is the Minister aware that whilst I was the Minister for Sports and Leisure, and therefore had an input in the purchase of equipment – that Government officials expressed to me their views that the playground equipment provided at taxpayers' expense was in no way inferior or of lesser standards than those that ended up in the Botanical Garden and that is a professional view expressed to me, as a Minister of Her Majesty's Government, during my tenure as Minister for Sports and Leisure.

3080

Hon. Chief Minister: Sorry, Mr Speaker, I think it is impossible for the hon. Member to answer that question, because how can we know what the hon. Member was told? I think this side of the House is happy to accept that he says he was told it, but we cannot accept or deny whether that was actually the case.

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3090

**Society for Cancer Relief
Support for new hospice facility**

Clerk: Question 755, the Hon. Mrs I M Ellul-Hammond.

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Hon. Mrs I M Ellul-Hammond: Mr Speaker, will the Minister for Health explain the detail of support, announced in his Budget Speech, that the Government will be giving the Society for Cancer Relief in order to run their new hospice facility?

3100

Clerk: Answer, the Hon. the Minister for Health and the Environment.

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, the Gibraltar Health Authority will be releasing a member of staff who will dedicate time both to the hospice facility and to cancer patients within the GHA, so ensuring continuity of care and smooth liaison between the charity and the Authority.

3105

Other ways in which the hospice can be supported are currently being studied.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Hon. Minister tell us who the member of staff is? Is it a nurse or a doctor or a specialist, a GP?

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Hon. Dr. J E Cortes: I do not feel comfortable in releasing the name without talking to the person in advance. The person is aware that he or she is the one designated for that, not currently practising as a nurse, but I believe with nursing qualifications.

I do not think I should go further than that.

3115

Hon. Mrs I M Ellul-Hammond: Mr Speaker, is the GHA considering funding a palliative doctor or helping the hospice fund a palliative doctor for the hospice?

3120

Hon. Dr. J E Cortes: Mr Speaker, as I said, other ways in which the hospice can be supported are currently being studied and that could include medical support. Quite how that would be achieved is what is being considered at the moment.

3125

**Sponsored Patients
Definition of 'disabled'**

Clerk: Question 756, the Hon. Mrs I M Ellul-Hammond.

3130

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health explain what the Government constitutes as 'disabled', with reference to the extra 50% allowance for Sponsored Patients, introduced in the Budget?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

3135

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, in this context, the Government constitutes the entitlement of 'disabled' as follows: people with Disability Pension, who have severe disability from birth; and people with a Disablement Pension – loss of faculty due to an injury at work.

3140

Hon. Mrs I M Ellul-Hammond: Mr Speaker, does not the definition of 'disabled' also include the description given in the Equal Opportunities Act 2006?

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Hon. Dr. J E Cortes: Mr Speaker, this is the way that the Sponsored Patient in advance of the review is dealing with this, because these are the particular definitions that we have currently in Gibraltar, related to disability. That is what we have to work with.

Any changes in that – any, for example, disability register which my colleague is developing and so on – may have a practical effect on who is entitled to that 50%. At the moment, and pending those reviews, that is what is happening at this point in time.

3150

Hon. Mrs I M Ellul-Hammond: Mr Speaker, the Equal Opportunities Act 2006 adds another description which says:

'A person who has cancer, HIV infection or multiple sclerosis is to be deemed to have a disability and hence to be a disabled person.'

3155 Will that not be taken into account as part of this description?

Hon. Dr. J E Cortes: I am advised that that relates specifically to the work environment and does not fall within the definitions that are currently used for this, but if any other evidence can be presented, then certainly we will have a look at that.

3160 I must say that, in the review, of the Sponsored Patients process, we have to look at all possibilities, including that.

3165 **Hon. J J Netto:** Mr Speaker, if I may, if I understood the Minister correctly, he said that right now, the only ones who benefit under those definitions are either disabled people at birth, obviously getting Disability Allowance, or people who have sustained an accident at work and are getting... I am not quite sure of his exact words but something like a pension derived from an accident at work, or words to that effect. So that is the criteria, the yardstick that is being applied.

3170 He also mentioned in that sentence that his colleague sitting next to him is conducting a review that may broaden out the definition of disability. Is that exactly what he is saying? I was not sure.

Hon. Dr. J E Cortes: No, what I was referring to is a disability register, which is being worked on. That is what I was referring to.

3175 **Hon. J J Netto:** So that will not impact in any way the definition the Social Security Department has for people who have an accident at work who then get a pension derived from an accident at work? The reason why I am saying this is because that definition, as far as I understand it, goes all the way back to when the Social Security Benefits Scheme took place in 1952 or 1954. So one can argue, and quite rightly, that it needs a review and needs to be broadened. This is why I was trying to find out whether this review he was alluding to, by the Minister for Social Services, is something that will impact on Social Security benefits.

Hon. Dr. J E Cortes: No, Mr Speaker, I did not mean to imply that at all. It is outside my area completely.

3185 I have answered the question. I have been asked, who do we pay this to? I have said who we pay it to. If there is a future policy change, then there might well be, and then we can obviously be taken to task for it, but at the moment, that is the answer that I have.

Chief Minister (Hon. F R Picardo): Mr Speaker, I might be able to assist the hon. Gentleman.

3190 If he looks at our manifesto, I think it is page 82, what we say about disability laws, that would have, potentially, the effect the hon. Gentleman is talking about. It is a different type of assessment of the definition of disability.

3195 **Hon. J J Netto:** I am grateful for that information, but just to try to develop it a little bit further, therefore, consistent with that manifesto commitment, is the Chief Minister then saying that there is a review taking place which may produce a broadening of the definition?

Hon. Chief Minister: This is it, Mr Speaker. There are different references to disability in our laws. The difference may be wider in some areas and narrower in others.

3200 The commitment here is to establish a different definition of disability for the purposes of a general definition, which may be applicable in some instances, and not in others, depending on which type of entitlement we are dealing with, which moves away from simply a disability an individual is born with. So people may find themselves eligible for disability benefit etc, where today they do not, because they are not born with a disability.

3205 The hon. Gentleman may know a number of cases where people have become disabled six months after being born, let alone 45 years after being born and in an industrial accident, but they are not recognised as 'disabled' under our laws. I think most administrations have tried to use such discretions as have been available to them, but nobody has actually faced up to the need to look at that core definition, and that is certainly something that we are looking at.

3210

**Colon Cancer Screening Programme
Details**

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Clerk: Question 757, the Hon. Mrs I M Ellul-Hammond.

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Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health provide details, as announced during the Budget, for which £300,000 has been earmarked, of the Colon Cancer Screening Programme and how it will take effect?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

3225

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, the £300,000 provided as start-up capital for the service is as follows: Pathology for histology equipment, £35,000; IM&T scoping and specifications, £5,000; IM&T development and implementation, £25,000; Surgery, four flexible colonoscopes, £160,000; Surgery, disinfectors, £50,000; Surgery, drying and storage unit, £25,000; making a total of £300,000.

3230

At this point, arrangements are in the process of being made to procure all the necessary equipment prior to commencing with the programme. The details of implementation are currently being discussed by a multi-disciplinary team.

3235

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister give an indication of when the GHA would like to start the screening programme?

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Hon. Dr. J E Cortes: Clearly as soon as possible, Mr Speaker, but this is complex because it requires a lot of different disciplines. It involves also a system to advise potential members of the community for the screening, so it is something that is being developed at the moment, and I cannot give an implementation date at this point in time.

3245

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister say if the screening will be taking place within St Bernard's Hospital?

Hon. Dr. J E Cortes: It is likely, but I cannot confirm that, at this moment. That is the likely place that this would happen.

3250

Hon. Mrs I M Ellul-Hammond: And Mr Speaker, can the Minister advise which sector of the population will be targeted? Is it above a certain age or would be a certain type of person who will be invited for screening?

3255

Hon. Dr. J E Cortes: The specifications are being developed by the multi-disciplinary team. It is above a certain age. I am not sure whether it is 55. I am not absolutely sure, but I can provide that information separately.

But as I say, the details of implementation are not just who is going to do what and how people are going to be called, but also who are the people who are going to be targeted in this? So that is hopefully what this team will come up with very shortly.

3260

Hon. Mrs I M Ellul-Hammond: Mr Speaker, does the GHA have a gastroenterologist to form part of this screening programme and will the images be read here, or sent to the United Kingdom?

3265

Hon. Dr. J E Cortes: Mr Speaker, we have recently recruited a new surgeon who specialises in this type of intervention. Whether he will be the one carrying it out or not is something that is part of this discussion.

3270

As I say, details of implementation are currently being discussed by a multi-disciplinary team. I do not want to say anything here that the multi-disciplinary team may have discussed a week ago, and may not have got back to me on, and I am going to say something that the clinicians do not support, because it is absolutely essential that it is the clinicians who decide how this goes forward and not the politicians. Therefore, when I have the information from the multi-disciplinary team, I will clearly share it. In fact, our whole community will know because it is the community that hopefully will benefit – that *will* benefit.

3275

**Patients' appliances
Decrease in forecast funding**

3280 **Clerk:** Question 758, the Hon. Mrs I M Ellul-Hammond.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, can the Minister for Health explain why there is a decrease of £30,000, from the forecast outturn of 2011-12 to the 2012-13 estimates, in funding for 'Patients' Appliances', found on page 170 of the Estimates Book?

3285 **Clerk:** Answer, the Hon. the Minister for Health and the Environment.

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, as we have seen before in this session, this is really a matter that should have been raised during the course of the Committee Stage of the debate on the Appropriation Bill.

3290 Nonetheless, I will explain that the final spend for 2011-12 on Patient Appliances was around £181,980 and not £230,000.

3295 The forecast outturn figure presented on page 170 of the Estimate Book 2012-13 was that provided halfway through the year and was calculated based on the spend at the time. The spend in the last six months of the year was not as high as expected. Therefore, the £200,000 provided is expected to be adequate.

**Dressings, medical gases and tests
Decrease in forecast funding**

3300 **Clerk:** Question 759, the Hon. Mrs I M Ellul-Hammond.

3305 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, can the Minister for Health explain why there is a decrease of £100,000, from the forecast outturn of 2011-12 to the 2012-13 estimates, in funding for 'Dressings, Medical Gases and Tests', on page 170 of the Estimates Book?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

3310 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Mr Speaker, with the same preamble regarding the Committee Stage, I will explain, similarly, that the total final spend for last year was around £1,281,000 and not £1,300,000. The forecast outturn presented on page 170 was that provided again halfway through the year and calculated based on the spend at the time.

3315 The spend in the latter part of the year was lower than expected. The actual decrease is therefore about £80,000, not £100,000, which is not unreasonable, given the lower trend towards the end of the year. In any case, this does not mean that should there be a need to increase the spend, the necessary items will not be bought – because they will.

3320 **Procurement of equipment and medicines
Ensuring value for money**

3325 **Clerk:** Question 760, the Hon. Mrs I M Ellul-Hammond.

Hon. Mrs I M Ellul-Hammond: Mr Speaker, with regard to the subhead of 'Other Recurrent Expenditure, Equipment and Related Expenses' on page 170 of the Estimates Book, can the Minister for Health explain how will the GHA ensure value for money and waste elimination in the procurement of such equipment and medicines?

3330 **Clerk:** Answer, the Hon. the Minister for Health and the Environment.

3335 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Mr Speaker, with a similar preamble about the Committee Stage, I will explain that, as in previous years, the GHA follows tender procedures as per Government procurement processes.

**Ambulance and public transfer vehicles
Fuel expenses**

3340 **Clerk:** Question 761, the Hon. Mrs I M Ellul-Hammond.

3345 **Hon. Mrs I M Ellul-Hammond:** Mr Speaker, if the fleet of ambulances and public transfer vehicles has increased, can the Minister for Health explain why the funding for 'Fuel Expenses', in the Estimates Book on page 170, has gone down by £20,000 on last year's forecast outturn?

Clerk: Answer, the Hon. the Minister for Health and the Environment.

3350 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Yes, Mr Speaker, because the fuel expenses for the ambulance fleet is met from the recurrent ambulance budget and not from the motor vehicles and fuel expenses account.

EQUALITY AND SOCIAL SERVICES

3355

**Care Agency
Trainees**

3360 **Clerk:** Question 762, the Hon. J J Netto.

3365 **Hon. J J Netto:** Mr Speaker, can the Minister for Social Services state how many trainees, if any, have been placed in the Care Agency by the Employment Services or through the Government company 'ETCL', and state the training being provided, the location within the Care Agency, how long the training will last, will such training deliver any recognisable qualification or qualifications, and if so, which ones?

Clerk: Answer, the Hon. the Minister for Equality and Social Services.

3370 **Minister for Equality and Social Services (Hon. Miss S J Sacramento):** Mr Speaker, the Employment Service does not place anyone in employment. There are currently 35 ETCL trainees placed as care workers within different departments of the Care Agency. They are not always in the same department.

3375 The trainees who are taken on as care workers undertake the Care Agency's generic core training which is delivered by the Care Agency, following which they undertake training within the various departments of the Care Agency in which they are based. The modules in the generic core training have been modified so that they can serve as a precursor to a Diploma in Health and Social Care.

The training can last for a period of up to 11 months. There are four ETCL employees working in general administration as part of their acquisition of office skills, but they are not in the Care Agency permanently and are rotated. There is one labourer, and the same principle applies.

3380

**Care Agency
11-month contract holders**

3385 **Clerk:** Question 763, the Hon. J J Netto.

3390 **Hon. J J Netto:** Mr Speaker, can the Minister for Social Services provide the information on the following: (1) have any of the persons given an 11-month contract, as stated in Question 636, now ended such short-term contract, and if so, how many of them have been provided with an indefinite contract stating their grade and nationality; and (2) have any of the 11-month contracts been issued since this Question was last asked in Question 636 in the Care Agency, and of those: (a) what are their nationalities; (b) their grades; and (c) their location.

3395 **Clerk:** Answer, the Hon. the Minister for Equality and Social Services.

Minister for Equality and Social Services (Hon. Miss S J Sacramento): Mr Speaker, none of the 11-month contracts referred to in Question 636 have yet ended. Seven new 11-month contracts have been

issued since this Question was last asked in Question 636. I am handing the hon. Member a table with the breakdown requested.

3400

ANSWER TO QUESTION 763 OF 2012

Number of new 11 Mths Contracts issued	Grades	Nationality	Location
7	5 Registered General Nurses	1 Brit/UK 1 Irish 3 Spanish	Elderly
	1 Social Worker	Brit/UK	Social Services
	1 Domestic	Brit/Gib	Elderly

**Mount Alvernia
Nursing Co-ordinator post**

Clerk: Question 764, the Hon. J J Netto.

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Hon. J J Netto: Mr Speaker, can the Minister for Social Services state if the vacant position of Nursing Co-ordinator at Mount Alvernia has now been filled, and, if not, by when does the Care Agency intend to fill such post?

Clerk: Answer, the Hon. the Minister for Equality and Social Services.

3410

Minister for Equality and Social Services (Hon. Miss S J Sacramento): Mr Speaker, I can confirm that the vacant position of Nursing Co-ordinator at Mount Alvernia is currently being filled, albeit in an acting capacity.

3415

Hon. J J Netto: Is the person acting in this particular post an employee of the Care Agency, or an employee of the GHA or perhaps outside the GHA?

Hon. Miss S J Sacramento: It is an employee of the Care Agency, Mr Speaker.

3420

Hon. J J Netto: And when does the hon. Lady think that such a position will become regularised, in the form of advertising internally within the Care Agency the vacancy?

Hon. Miss S J Sacramento: Mr Speaker, there is currently a review of the structure of the Care Agency, so once the review is undertaken and finalised, then we will be able to take a position on vacant posts.

3425

Hon. J J Netto: Is the hon. Lady perhaps saying that the review...? I am not anticipating what the conclusion of a review can be, but at least to the extent that the review might say that they will do away with the position of Nursing Co-ordinator.

3430

Hon. Miss S J Sacramento: Quite possibly.

**Care Agency
Chief Executive post**

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Clerk: Question 765, the Hon. J J Netto.

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Hon. J J Netto: Can the Minister for Social Services state if the position of Chief Executive of the Care Agency has now been appointed on a permanent basis, and if so, when did this happen, or is the current incumbent still carrying out these functions on an acting basis?

Clerk: Answer, the Hon. the Minister for Equality and Social Services.

3445 **Minister for Equality and Social Services (Hon. Miss S J Sacramento):** Mr Speaker, the Chief Executive for the Care Agency has not been appointed on a permanent basis. It continues to be covered on an 'acting' capacity by the same person appointed by the hon. Member on 29th November 2011.

3450 **Hon. J J Netto:** Is there any particular reason why, given that the Members opposite have now been in Government for something like nine months, such a crucial and important post as the Chief Executive of such a big organisation... Can the hon. Lady sit down and let me be allowed to finish? Thank you

Hon. Miss S J Sacramento: Finish the question.

3455 **Hon. J J Netto:** Well, I am, if you calm yourself down.
Given that this is quite a large organisation, employing a substantial amount of people there... that perhaps it has taken such a long time. Is this perhaps part of the review she was referring to before?

3460 **Hon. Miss S J Sacramento:** No, Mr Speaker, it is precisely because it is such a crucial role and because we are a new Government and because the Care Agency has the enormous problems that it has, that the Chief Executive continues to be the same person, because at least there will be a period of continuity by someone who was there before this Government came in, Mr Speaker.

3465 **Hon. J J Netto:** Mr Speaker, does the hon. Lady have any indication as to by when she thinks that she will be in a position to place this vacancy out so that people in the Care Agency can apply on a permanent basis?

3470 **Hon. Miss S J Sacramento:** Mr Speaker, by way of example, the post of General Manager for GBC was vacant for four years, the post of Chief Secretary, which is an even greater role than that of Chief Executive of the Care Agency, was vacant for 18 months. This is a post on which the person who is currently acting has been acting for a little over 10 months, Mr Speaker.

It is likely that there may be a change soon. In fact, this is also a post that will be considered in the review, but for the time being, Mr Speaker, it is not unusual or extraordinary that the person that the hon. Gentleman placed in an acting position a few months ago continues to be acting now.

3475

**Care Agency
Disabilities Team Leader post**

3480 **Clerk:** Question 766, the Hon. J J Netto.

Hon. J J Netto: Mr Speaker, can the Minister for Social Services state how long the vacancy of team leader has been vacant for and if it is the intention of the Care Agency to fill such vacancy?

3485 **Clerk:** Answer, the Hon. the Minister for Equality and Social Services.

3490 **Minister for Equality and Social Services (Hon. Miss S J Sacramento):** Mr Speaker, if the hon. Member is referring to the Disabilities Team Leader post, I can confirm that it is currently being filled in an acting capacity. This post has been vacant since 19th July 2011, when the previous incumbent retired. The vacancy was never advertised at the time. This post is currently under review.

3495 **Hon. J J Netto:** Will the review take into consideration whether the team leader's post will be someone – although at that particular grade – perhaps who specialises in disability? Is that part of the review or part of the issues that will be taken into account?

Hon. Miss S J Sacramento: Mr Speaker, one would naturally expect that the position filled by the Disabilities Team Leader would be someone with experience in the field of disabilities, yes. I do not think we need a review for that, Mr Speaker.

3500 **Hon. J J Netto:** Mr Speaker, if she does not need a review for that, can she then tell me when is the vacancy going to be advertised?

3505 **Hon. Miss S J Sacramento:** Mr Speaker, it is not the qualification of the person; it is the nature of the role. That is what is being reviewed at the moment.

3510 **Hon. J J Netto:** Mr Speaker, the hon. Lady has had nine months to review the role? Is she saying that she is going to take three-and-a-half years to look at the role, given that she knows already that the person has to be a specialist person in disability? The role is not something that requires... We are not talking about rocket science; we are talking about a role within the management of disability issues. How long is it going to take: another nine months, another two years, three-and-a-half years? I do not know.

3515 **Hon. Miss S J Sacramento:** Mr Speaker, first of all, let me repeat what I said earlier: that the post is currently being filled by someone in an acting capacity, so it is not as if the role is vacant. Second, Mr Speaker, the person who left the role left on 19th July 2011, so the hon. Member had the months of July, August, September, October, November and December to advertise that role, (**A Member:** Five months.) and that is a role that they created, so clearly they were satisfied with that role, so they had no excuse not to advertise the role, Mr Speaker.

3520 We are reviewing the role, the structure and the function of the Disability Service, Mr Speaker, but in the meantime the role is covered, so I can assure the hon. Member that it is covered and that the Disability Service is covered.

Unfortunately, Mr Speaker, the hon. Member has left me with such a mess that I have had to deal with all sorts of problems.

3525 **A Member:** Hear, hear. (*Banging on desks*)

Hon. J J Netto: Mr Speaker, let me tell her why the delay of five months on my part. The delay was simply because –

3530 **Hon. Miss S J Sacramento:** Where is the question, Mr Speaker?

Hon. J J Netto: Mr Speaker, I am having a preamble to then ask a question.

3535 **Mr Speaker:** Not a very long one – a preamble, yes, but not a very long one. Go ahead with the preamble and then the question.

3540 **Hon. J J Netto:** The only reason why there was a delay of five months is because there was an agreement between the union, the GGCA and the Government in which that particular post had to be a social worker, not necessarily a person who had to be specialised in disability, and those were issues that had to be negotiated with the union. That was part of the delay. Having said that, I am not aware whether once they got into Government they have continued with the union to pursue whether the agreement can verify in any way where, not necessarily a senior social worker, a team leader in this particular case, would fit into that particular post, because my view at the time was that it would be much better to have a person specialised in disability for that.

3545 But having said that, Mr Speaker, given that she has now said that there is a person acting while the consideration is taking place, is the person acting someone who is either a social worker or a senior social worker, or whether it is someone who has a speciality in disability?

3550 **Hon. Miss S J Sacramento:** Mr Speaker, the person who is acting in the role is the same person who was acting in the role when the previous incumbent retired.

Hon. D A Feetham: Sorry, what do you mean by the phrase ‘the previous incumbent’? Do you mean my hon. Friend Mr Netto?

3555 **Hon. Miss S J Sacramento:** No, the previous incumbent of the role – the person who was the Disabilities Team Leader. That person retired in July last year and someone was acting in that position. The person who is acting now is the same person.

3560 **Hon. D A Feetham:** Sorry. It is just that I had thought that what you were saying was the position had remained vacant from July until December and that you had put somebody in, in an acting capacity, and at the very least you had done that. So the position then is that there has been acting, since July of last year and that person continues to act as from July of last year – the five months that he was responsible and the nine that you were responsible.

3565 **Hon. Miss S J Sacramento:** Actually, Mr Speaker, I understand that someone was not acting continuously between July and December, but that from time to time somebody acted during that period. The person who is acting now is the person who intermittently acted during that period. I hope that is clear.

3570 **Hon. J J Netto:** Mr Speaker, the actual person that the hon. Lady is mentioning is a person who is not a social worker or a senior social worker, but a person who was the assistant nursing co-ordinator in Mount Alvernia. The only reason why he actually went to act at the time, when the previous person retired, was because it was more or less at the same time where we had employed new nurses to provide nursing duties in Dr Giraldi Home and it was important to ensure that we marry all different types of facilities, and this particular person had a specific timing or acting there to ensure that the smooth reforms were taking place.

3575 So have the duties that were assigned at the time, for a specific period of time – certainly much shorter than five months, because it should not have been more than perhaps two or three months – now been extended, or whether that particular person has been made... I would not say ‘permanent’, because you told me it is on an acting basis?

3580 So the person has been extended well beyond the brief that was done by the Care Agency at the time and obviously this has given a situation where you continue to act for this person, but the review is taking place. Eventually that particular person, if the review says, is not going to be a senior nursing grade, he is going to be someone specialised in disability and would have to return back to Mount Alvernia. Is that the case?

3585 **Hon. Miss S J Sacramento:** Regardless of what the recommendation is, it will be a review of the structure and not the person. That person is acting and that person will return to that person's post in Mount Alvernia when the acting period finishes.

3590 If the vacancy then arises and that person wishes to apply for it, then so be it; but there is no question of that person then being made permanent there because that person is acting.

Hon. J J Netto: Mr Speaker, what I am saying... perhaps I have not made myself sufficiently clear.

3595 The substantive position of that particular person is not to be team leader of the Care Agency in terms of disability. The substantive position of that person is to be the assistant nursing co-ordinator up in Mount Alvernia. Therefore, there has to be a definite time when he has to finish the acting, to be able to go back. Or is it that he has no place there whilst somebody is acting in his post at Mount Alvernia?

Hon. Miss S J Sacramento: Mr Speaker, he is placed there temporarily while he is acting and someone is acting in his place in Mount Alvernia.

3600 First of all, I think it is important to remind the hon. Member that the Dr Giraldi Home has a manager in any event, and we are talking about the post of the team leader, which is a management post, and then co-ordinates both the manager at Dr Giraldi Home and the manager at St Bernadette's.

3605 The hon. Member will be happy to know that we have spent a considerable time reviewing this post, reviewing the structure, and in fact this is one of the posts that will be advertised very, very shortly. As he alluded to earlier, this also involved negotiations with the unions. So I hope that the answers are now clear.

3610 **Hon. J J Netto:** Mr Speaker, I am somewhat confused because I seemed to have picked up that she is now saying that the advert is going to be shortly advertised, when before she was telling me it was part of a much bigger review. The review has now concluded, obviously, and this is why you are in a position to... or the Care Agency are in a position to actually get out the vacancy to be published. So it seems like your previous intervention is contradicted by your latter one.

3615 **Hon. Miss S J Sacramento:** No, Mr Speaker, because I said that the review was the reason as to why the post had taken nine months to be advertised. The review has been undertaken by many professionals, in consultation with the union, and the review is almost complete and we are in a position where we are now able to take a decision.

3620 **Hon. D A Feetham:** Can I just ask, have you taken a decision or is it that you are in the process of taking the decision? Has the review completed or are you in the process of completing the review?

Hon. Miss S J Sacramento: In relation to this post a review has been undertaken. It is almost finalised and we expect to be in a position to be able to take a final decision very shortly – hopefully next week, if not the week after. (*Interjections*)

3625 **Hon. J J Netto:** I am accepting that now, but she also mentioned that there have been discussions, perhaps negotiations with the union. Can I ask her then whether the union – the GGCA in this particular case – is satisfied and happy to change the original role of the team leader, which used to be a social worker, to perhaps being someone who is not necessarily a social worker but perhaps someone of another profession, but certainly someone who is specialised in this disability?

3630 **Hon. Miss S J Sacramento:** Mr Speaker, the hon. Member is assuming that the professionals involved in the review think that the post should not be undertaken by a social worker.

3635 **Hon. J J Netto:** No, no, it is not me who is saying that. This is the position of the GGCA. What I am trying to ascertain is whether the union, in part of this negotiations that you are now alluding to, has consented that the change can take place. It is not my view; it is the view of the union.

Hon. Miss S J Sacramento: Mr Speaker, the union would only have to consent in the event that there was a change. I am not saying that there has been a change, Mr Speaker.

3640 **Hon. J J Netto:** Therefore, if there is not going to be a change, it means that it is not going to be someone of a profession who specialises in disabilities; it is going to be someone who comes from a social worker's background.

3645 **Hon. Miss S J Sacramento:** Mr Speaker, perhaps it may be news to the hon. Gentleman, but most people who specialise in disabilities have a social worker background.

3650 **Care Agency
Residential Home Manager post**

Clerk: Question 767, the Hon. J J Netto.

3655 **Hon. J J Netto:** Mr Speaker, can the Minister for Social Services say how long the position of Residential Home Manager has been vacant for and if it is the intention of the Care Agency to fill such a post in Tangier Views?

Clerk: Answer, the Hon. the Minister for Equality and Social Services.

3660 **Minister for Equality and Social Services (Hon. Miss S J Sacramento):** Mr Speaker, the position of the Residential Home Manager has been vacant since 5th September 2011. It is being covered in the same way that it was under the previous administration. The structure of residential care is under review.

3665 **Care Agency
Assistance for former Looked After Child**

3670 **Clerk:** Question 768, the Hon. J J Netto.

Hon. J J Netto: Mr Speaker, can the Minister for Social Services say what assistance, if any, is the Care Agency providing to the former Looked After Child, now back with the family, as stated in answer to Question No. 632 of 2012?

3675 **Clerk:** Answer, the Hon. the Minister for Equality and Social Services.

3680 **Minister for Equality and Social Services (Hon. Miss S J Sacramento):** Mr Speaker, the Looked After Child was formally discharged from care on 9th July 2012 following a formal LAC review which identified the support that was required, and a support package was provided. Further details will be provided to the Opposition on a confidential basis.

3685 **Care Agency
Training for Looked After Children**

Clerk: Question 769, the Hon. J J Netto.

3690 **Hon. J J Netto:** Can the Minister for Social Services state if further progress has been made in finding suitable training programmes for the remaining Looked After Children referred to in Question 632/2012; and, if so what the training will consist of, when the training will start, who will provide such

training, and in the absence of a training programme placement, what measures is the Care Agency taking to ensure the Agency fulfils its parental responsibilities towards these children?

3695 **Clerk:** Answer, the Hon. the Minister for Equality and Social Services.

3700 **Minister for Equality and Social Services (Hon. Miss S J Sacramento):** Mr Speaker, this question now applies to two Looked After Children because one of those referred to in Question 632/2012 is no longer in care. One has been in employment through ETCL since 30th July 2012 and the other is registered with ETCL.

Given that this answer only applies to two children, further details will be provided to the Opposition on a confidential basis to avoid the risk of them being identified.

3705 **Clerk:** Question 770.

Chief Minister (Hon. F R Picardo): Mr Speaker, if that is a convenient moment, I propose to move the adjournment now to 2.30 p.m. tomorrow.

3710 **Mr Speaker:** I now propose the question which is that this House do now adjourn to Friday, 21st September 2012 at 2.30 p.m.

I now put the question, which is that this House do now adjourn to Friday, 21st September 2012 at 2.30 p.m. Those in favour. (**Members:** Aye.) Those against. Passed.

3715 **Mr Speaker:** Carried. This House will adjourn until Friday, 21st September 2012 at 2.30 p.m.

The House adjourned at 7.48 p.m.



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 2.30 p.m. – 6.00 p.m.

Gibraltar, Friday, 21st September 2012

The Gibraltar Parliament

The Parliament met at 2.30 p.m.

[MR SPEAKER: Hon. H K Budhrani QC *in the Chair*]

[CLERK TO THE PARLIAMENT: M L Farrell Esq RD *in attendance*]

Order of the Day

SUSPENSION OF STANDING ORDERS

Standing Order 7(1) suspended to proceed with Government Bills

Clerk: The sitting of Parliament, Friday, 21st September.
Suspension of Standing Orders. The Hon. the Chief Minister.

5

Chief Minister (Hon. F R Picardo): Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with Government Bills.

10

Mr Speaker: Those in favour. (**Members:** Aye.) Those against. Carried.

BILLS
FIRST AND SECOND READINGS

A Bill for an Act to amend the Public Health Act
First Reading approved

Clerk: Bills – First and Second Readings.

A Bill for an Act to amend the Public Health Act. The Hon. the Minister for Health and the Environment.

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, I have the honour to move that a Bill for an Act to amend the Public Health Act be read a first time.

Mr Speaker: I now put the question which is that a Bill for an Act to amend the Public Health Act be read a first time. Those in favour. (**Members:** Aye.) Those against. Carried.

Public Health (Amendment) Act 2012
Second Reading approved

Clerk: The Public Health (Amendment) Act 2012.

Minister for Health and the Environment (Hon. Dr. J E Cortes): I have the honour to move that the Bill be now read a second time.

Mr Speaker, this Bill to amend the Public Health Act goes in tandem with a Bill that we will be presenting shortly in the line of business today, which is related to the smoke-free environment. It was a commitment to offer certain facilities to establishments to help them, if help were needed, to adjust to the fact that they will now have to be smoke free. Therefore, we are introducing a system of reduction of rates, on a sliding scale, which will initially involve an additional 20% of discount for one year to 30th September 2013 and that will reduce to an additional 10% leading up to 30th September 2014.

I say ‘additional’, Mr Speaker, because there is already a 20% reduction on rates for prompt payment. However, we have had to include an additional amendment in this Act, because the 20% which is currently given, which is more than the 10% legislated, was an arrangement arrived by the previous Administration by an exchange of letters and was never incorporated in the law. Therefore, we have taken this opportunity because we believe it is our duty to do so, to incorporate this discount in the law by the amendment in clause 2(1), making it 20% as opposed to 10%, and then the additional 20% and then 10% on the sliding scale.

Therefore, I now commend the Bill to the House.

Mr Speaker: Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill?

The Hon. Daniel Feetham.

Hon. D A Feetham: Mr Speaker, the Opposition will be supporting this Bill, as indeed it will be supporting the Bill that I think the hon. Gentleman will be putting before the House in a few moments.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Public Health Act be read a second time. Those in favour. (**Members:** Aye.) Those against. Carried.

Public Health (Amendment) Act 2012
Committee Stage and Third Reading to be taken at this sitting

70

Clerk: The Public Health (Amendment) Act 2012.

75

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

Mr Speaker: Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today?

80

Members voted Aye.

Mr Speaker: The Committee Stage and Third Reading will be taken today.

85

A Bill for an Act to prohibit smoking in certain places, premises and vehicles
First Reading approved

90

Clerk: A Bill for an Act to prohibit smoking in certain places, premises and vehicles. The Hon. the Minister for Health and the Environment.

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, I have the honour to move that a Bill for an Act to prohibit smoking in certain places, premises and vehicles be read a first time.

95

Mr Speaker: I now put the question, which is that a Bill for an Act to prohibit smoking in certain places, premises and vehicles be read a first time. Those in favour. (**Members:** Aye.) Those against. Carried.

100

Smoke-Free Environment Act 2012
Second Reading approved

105

Clerk: The Smoke-Free Environment Act 2012.

Minister for Health and the Environment (Hon. Dr. J E Cortes): Mr Speaker, I have the honour to move that the Bill be now read a second time.

110

Mr Speaker, following the trend in many other countries and, indeed, a campaign led for several years in Gibraltar by several people, notably Mr Bryan Zammit, there was a general feeling in the community that we should catch up with the rest of the world and introduce legislation that would make the environment within premises and public service vehicles free from smoke.

It is one subject that was not contentious during the election campaign, but it was certainly this party's intention to introduce this Bill in the shortest time possible. I am therefore very pleased, as Minister both for Health and for the Environment, to bring this Bill before the House.

115

It is a Bill which brings us up to date with legislation in the UK and other European countries. It will prohibit smoking in enclosed public spaces. It will prohibit smoking in public service vehicles, with exemptions only in private residences, except when they are used as a place of work, and in certain specified rooms in hotels and, indeed, in other residences, such as care homes, hospices, prison and so on, where special provision can be made for long-term residents who smoke, to be able to continue to do so.

120

There are other interesting exemptions – although very few exemptions – and one is for performers in a play where the artistic integrity of the performance makes it appropriate for the person to smoke. I think that is a curious one to point out.

125

There is provision for exemptions to be made, although none are being made. The other provision is that 'no smoking' signs have to be placed in both premises and vehicles and there are penalties both for smoking where one should not and for not preventing smoking where it is prohibited.

I think that summarises the intention of the Bill. It is well known, it has been well covered in the community as a whole for quite some time, and I therefore commend the Bill to the House.

130 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill?
The Hon. Selwyn Figueras.

135 **Hon. S M Figueras:** Mr Speaker, yes, I commend the Government for bringing the Bill to the House. It is an initiative that, as he himself has pointed out, had the support of all political parties at the last election. It is in the furtherance of a trend identified by the Minister, which is a very positive one and this is a very good step for our community. As an ex-smoker myself, it is a measure that I felt was long overdue and which I am happy to support, as are the rest of the Members sat on this side of the House.

140 **Mr Speaker:** I now put the question, which is that a Bill for an Act to prohibit smoking in certain places, premises and vehicles be read a second time. Those in favour. (**Members:** Aye.) Those against. Carried.

145 **Smoke-Free Environment Act 2012**
Committee Stage and Third Reading to be taken at this sitting

Clerk: The Smoke-Free Environment Act 2012.

150 **Minister for Health and the Environment (Hon. Dr. J E Cortes):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

155 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and the Third Reading of the Bill be taken today?

Members voted Aye.

160 **Mr Speaker:** The Committee Stage and the Third Reading of the Bill will be taken today.

A Bill for an Act to amend the Supreme Court Act
First Reading approved

165 **Clerk:** A Bill for an Act to amend the Supreme Court Act. The Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

170 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Supreme Court Act be read a first time.

175 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Supreme Court Act be read for a first time. Those in favour. (**Members:** Aye.) Those against. Carried.

Supreme Court (Amendment) Act 2012
Second Reading approved

180 **Clerk:** The Supreme Court (Amendment) Act 2012.

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, I have the honour to move that the Bill be now read a second time.

185 Mr Speaker, in July of this year, Parliament passed an amendment to the Magistrates' Court Act, which had the effect of increasing the age for magistrates and justices of the peace from 70 to 72. This Bill does the same, in terms of increasing the age, but for lay assessors under the Supreme Court Act.

190 In order for a lay assessor to be appointed, that person needs to be qualified to be on the Jurors' List and be no more than 70 years old. The Government received representations, in particular from the Judicial Services Commission, about the desirability of increasing the age to 72 and the Government has accepted that recommendation and has put forward this Bill for that purpose.

I have, Mr Speaker, given notice that I will be moving at Committee Stage an amendment to the Bill. What the amendment does is allow justices of the peace to sit also as lay assessors. This again follows representations made to the Government by the Magistrates' Association, on the basis that their experience and expertise could be well utilised, if they were to be called upon to be lay assessors.

195

As the Act currently stands, they would not be able to do so, because of the requirement to be on the Jurors' List. Justices of the peace are not entitled to go on the Jurors' List, so therefore they were exempt from the possibility of applying for lay assessors or being appointed as lay assessors. What the amendment does is allow simply the appointment of justices of the peace as lay assessors.

200

Mr Speaker, I commend the Bill to the House.

Mr Speaker: Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill?

The Hon. Daniel Feetham.

205

Hon. D A Feetham: Yes, Mr Speaker, I think that we have had exchanges in relation to this in the past. I think that it is a sensible proposal by the Government and therefore it will enjoy the support of the Opposition benches.

210

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Supreme Court Act be read a second time. Those in favour. (**Members:** Aye.) Those against. Carried.

215

**Supreme Court (Amendment) Act 2012
Committee Stage and Third Reading to be taken at this sitting**

Clerk: The Supreme Court (Amendment) Act 2012.

220

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

225

Mr Speaker: Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today?

Members voted Aye.

Mr Speaker: The Committee Stage and Third Reading will be taken today.

230

**A Bill for an Act to provide protection for employees and
other workers who disclose information in the public interest
First Reading approved**

235

Clerk: A Bill for an Act to provide protection for employees and other workers who disclose information in the public interest. The Hon. the Minister for Enterprise, Training and Employment.

240

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, I have the honour to move that a Bill for an Act to provide protection for employees and other workers who disclose information in the public interest be read a first time.

245

Mr Speaker: I now put the question, which is that a Bill for an Act to provide protection for employees and other workers who disclose information in the public interest be read a first time. Those in favour. (**Members:** Aye.) Those against. Carried.

250

**Employment (Public Interest Information) Act 2012
Second Reading approved**

Clerk: The Employment (Public Interest Information) Act 2012.

Minister for Enterprise, Training and Employment (Hon. J J Bossano): Mr Speaker, I beg to move that the Bill for the Employment (Public Interest Information) Act 2012 be read for a second time.

This Bill implements one of our manifesto commitments which we have referred to in the past as whistleblower protection, as is the case in the UK – the same terminology is used. The purpose of the Bill is to provide protection for people who come forward to provide information about abuse or other wrong doing and the way that we are proposing to do this is to amend the Employment Act in a similar way to such protection which exists elsewhere such as in the UK.

Members of this House will be aware that a Command Paper was presented and published in June 2012 on this matter and the Command Paper contained the draft version of the Bill. The Government received one single response, which was taken into account before publishing this Bill. The response did not necessitate any changes to the substance of the Bill, so the Bill before this House is as it appeared in the Command Paper.

On the Bill itself, the protection it provides extends virtually to all employees in the public, private and voluntary sectors and the reference to ‘workers’ is a wider definition than that of ‘employee’ in the rest of the Employment Act. Therefore it includes members of the Royal Gibraltar Police under section 45L.

It protects them, if they make a qualifying disclosure in accordance with the provisions of the Bill. A qualifying disclosure is a disclosure of information which the worker reasonably believes tends to show one or more of the following that it is either happening now, took place in the past, or is likely to happen in the future: a criminal offence; a breach of legal obligation; a miscarriage of justice; a danger to health or safety of an individual; damage to the environment; or deliberate concealment of information tending to show any of the above five matters.

In making the disclosure, the worker must have a reasonable belief that the information he or she is disclosing shows one or more of the matters listed above, which is referred to in the Bill as a ‘relevant failure’. For a belief to be reasonable in such cases, the worker must show that he or she actually held that belief and that it was reasonable to do so in the circumstances at the time of the disclosure, even though it may be that the belief was unfounded and it might subsequently be discovered that the worker was wrong.

When the worker makes a qualifying disclosure, he or she will be protected by the provisions of the Bill, if the disclosure is made under the right circumstances, including that it should be made in good faith. There are, however, some occasions when a worker would not be protected: for example, in making the disclosure, the worker commits a criminal offence by doing so, or if the disclosure is made by the legal adviser, when information is subject to legal professional privilege.

Under the Bill, protection can be sought, even if the relevant failure took place overseas, or where the law applying to a relevant failure was not that of Gibraltar. There are a number of persons to whom disclosures may be made, ranging from the employer, the legal adviser, Ministers, and prescribed persons by order of the Minister. Disclosure to any of these persons are subject to different requirements, which are set out in the proposed sections: 45C, 45D, 45E and 45F.

A qualifying disclosure will be a protected disclosure, even if it is not made by any of the people listed above if the following conditions are met, which are set out in 45G. The worker must be making the disclosure in good faith, must reasonably believe that the information and the allegations are substantially true and must not be acting for personal gain.

Additionally, one or more of the following conditions has to be made: the worker reasonably believed that he or she would be subjected to a detriment by his or her employer, if the disclosure was made to the employer or to a prescribed person; in the absence of an appropriately prescribed person, the worker reasonably believed that the disclosure to the employer would result in the destruction or concealment of evidence relating to the failure; and the worker had previously disclosed substantially the same information to his employer, or to a prescribed person.

Finally, it must be reasonable for the worker to make the disclosure. Guidance as to what is reasonable is also included in the section which sets out what the Industrial Tribunal would have to take into account if it was required to decide whether the worker acted reasonably in all the circumstances. This includes: the identity of the person to whom the disclosure was made; the seriousness of the failure; and whether the relevant failure is continuing or likely to continue in the failure; whether the disclosure is made in breach of the duty of confidentiality, or by an employer to any other person; whether the disclosure was previously made to the employer or a prescribed person; and whether the disclosure was previously made to an employer and the worker complied with internal procedures.

The proposed section 45H makes provision for disclosure of information relating to exceptionally serious failures. In such cases there are different requirements relating to such a disclosure.

The proposed sections further make provision for the voiding of contractual duties of confidentiality which might preclude workers from making such a disclosure. The Bill will protect workers from action taken, or which may be taken by their employer. For example, if an employee is dismissed because he or she made the disclosure, this will be treated as an unfair dismissal, which may be actioned as such.

315 Workers are given a new right not to be subjected to a detriment by their employers on the grounds that they have made a protected disclosure and workers may present a complaint to a tribunal, if they suffer detriment as a result. Such complaints must be made within three months or such other time as the tribunal considers reasonable. If the tribunal finds a complaint well founded, it shall make a declaration and may make an award of compensation to be paid by the employer and the amount shall be such as the tribunal considers just and equitable in the circumstances.

320 The Bill in fact follows closely the provisions of the Public Interest Disclosure Act 1998, which amended the Employment Act 1996.

I commend the Bill to the House.

325 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill? The Hon. Daniel Feetham.

Hon. D A Feetham: Mr Speaker, yes.

330 Mr Speaker, unfortunately, in its current form, the Opposition is not able to support this Bill. I will express my concerns in relation to it and it may well be that a formula can be worked out, perhaps at Committee Stage. But of course, I will listen to what Minister Bossano has to say in response that may deal with our concerns, allowing the Opposition to support it.

335 Our concerns are that, although this is a Bill that has to be seen in the context that it is going to amend the Employment Act and it relates to workers, none of the disclosures or the so-called disclosures qualifying for protection are actually circumscribed by the worker's employment or the environment in which he works.

In other words, if one looks at, for example, proposed clause 45B(1), it says this:

340 'In this Part a "qualifying disclosure" means any disclosure of information, in other words, any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following—

- (a) that a criminal offence has been committed, is being committed or is likely to be committed;
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- (c) that a miscarriage of justice has occurred, is occurring, or is likely to occur...'

345 In its current form, it is our view that, though it may be *intended* by the Government that it ought to be read as circumstances relating to that person's employment, that is not the way that it reads and potentially, if this is allowed to go through, then the qualifying disclosures can be much wider. Yesterday, we were talking, jesting about the fact that when I drive home, I see people feeding the apes. That potentially may fall under something like this, because a criminal offence may be committed. I am a worker and I may then say, 'Well, I am a worker and I am entitled to whistleblow in that particular situation, without taking advantage of anonymity.' That is not the intention of this. I believe it is the effect of it and of course, if the Government were to turn round and say, 'Alright, it is a valid point, we will agree to an amendment'... and the amendment that I had in mind, for example, is in 45B(1), after the words 'means any disclosure of information', add the words 'relating to his employment or the environment in which he works', and then when one turns to clause 45C(b), where it says:

355 'where the worker reasonably believes that the relevant failure relates solely or mainly to—
(i) the conduct of a person other than his employer, or
(ii) any other matter for which a person other than his employer has legal responsibility,'

360 – again, wider, potentially, than circumstances relating to his employment –

'to that other person'

365 and I would add there: 'provided that the relevant failure or other matter relates to circumstances relating to the worker's employment.' If that formula of words, or something similar, can be worked out and either agreed or something similar can be suggested from the Government benches to make it absolutely clear that this relates to the working environment – the worker and the working environment and no wider than that – then it *would* have the support of the Opposition benches.

370 Otherwise, I am afraid that this goes too far and we are not inclined... we will not support it, because potentially it allows workers, with the benefit of all the protection in this Bill, to just simply whistleblow in circumstances where I do not think, and we do not think, that the Bill is intended to cover.

375 **Mr Speaker:** Does any other hon. Member wish to speak on the general principles and merits of the Bill?

The Hon. the Chief Minister.

380 **Chief Minister (Hon. F R Picardo):** Mr Speaker, we do not think that that is a possibility, because the structure of this Bill, inserting into the employment provisions of our law, is clearly relating to workers, dealing with aspects relating to their employment or in the carve-out which is provided for in the section that the hon. Gentleman has just taken us to.

385 Therefore, the hon. Gentleman is raising a point which we think is a non-point. He is identifying that he agrees with us in respect of what it is that we all wish to provide coverage for. We are not advised that this is an issue. In the hon. Gentleman's interpretation, this Bill covers anyone in Gibraltar who is in employment who witnesses any offence being committed and who then, instead of having such obligations or rights as he may have to report that matter, actually uses this particular amendment of the legislation as a cloak to ask for anonymity in that reporting. Mr Speaker, we do not think that is, in any way, a point of substance that causes us concern.

390 If an individual went to the police station and said, 'Look, I have seen an offence being committed and I am very worried about reporting it, because of the repercussions that could happen to me,' well, the Police have certain powers to assist that individual to deal with what he is telling them as intelligence, for example, rather than as evidence and in that way have some protection, if there is a good reason for the individual to seek protection in certain circumstances and within the discretion of the officers who may be dealing with the matter or of the Attorney, when it came to bringing a prosecution in respect of that information.

395 This Bill is being dealt with in this way, in particular, in order to ensure that it is clear – and we think it is abundantly clear – that what you are dealing with here are matters relating to employment and workers in the context of the legislation, clearly relating therefore to employment circumstances. So, Mr Speaker, although the hon. Gentleman has raised the issue, I do not think that this has merit requiring us to agree to an amendment.

400 But I will say this to him: although we do not agree that it is a relevant point, now that he has raised it and we are saying that the Bill is not intended to cover any of those circumstances and it is employment legislation for that purpose, I think he should rest assured that if anybody needs to look at any aspect of this piece of legislation, once it is an Act, if there should be *any doubt*, under the principles in *Pepper v. Hart*, then they will be able to see in *Hansard* that that is not the intention of the legislature at all.

405 *Not* that we believe for one moment that it is possible to read the Bill in that way, other than mischievously. I am not suggesting that the hon. Gentleman is reading it mischievously, but a lawyer might read it mischievously for the purposes of interpretation, in a case in a court or in a tribunal in this jurisdiction. They will now have that door closed to them, by the hon. Gentleman having raised the point – I do not think mischievously; I think genuinely – and the Government having dealt with it.

410 **Mr Speaker:** Does any other hon. Member wish to – ? I am not sure you are allowed to... but I am not saying no, but the rules of debate are that everybody gets only one say in the matter. The usual process is to allow a Member to give way, but because of the nature of debate, I will allow...

415 Ah, the Hon. Gilbert Licudi. There is a way there! No doubt you will allow him to [*inaudible*]!

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): I was going to say that, if the hon. Member wants to say anything and he asks me to give way –

420 **Mr Speaker:** I was not going to rule him out altogether, but I am glad the Hon. Minister – I appreciate that –

425 **Hon. G H Licudi:** It is a Rule, that a Member speaks only once and then the speaker... the mover of the Bill –

Mr Speaker: No, but everyone gets only one say, anyway.

430 **Hon. G H Licudi:** Yes, that is absolutely right, sir. If the hon. Member, before I sit down, wants me to give way – does he want to – ?

Hon. D A Feetham: I am very grateful.

Hon. G H Licudi: Do you want to speak now, or after you hear what I have to say?

435 **Hon. D A Feetham:** Well, perhaps you might have your say and then I will –

Mr Speaker: You may not get a third bite of the cherry!

440 **Hon. D A Feetham:** Mr Speaker, I am perfectly aware of the Rules. We have been tolerant and lenient in the past in relation to this –

Mr Speaker: No, no exactly. I was not going to rule it out altogether, but I just thought I would point it out.

445 The Hon. the Minister for Justice.

Hon. G H Licudi: Mr Speaker, the point has been emphasised by the Chief Minister as to the context of this Bill and what it is intended to do. The very fact that it is brought to this House, not as a self-standing Bill for an Act, but as an amendment to the Employment Act precisely shows the context that this is the employment scenario.

450 But the Bill actually goes further than that. What we have to analyse in this context is what it is that this Bill does. This Bill is not about people going out and making disclosures. Anybody can go out and make a disclosure today about a criminal offence and all the other matters which are set out in the Bill. The purpose of the Bill is to provide *protection* in respect of that disclosure and what the hon. Members need to look at is what is the nature of that protection. The nature of that protection is the specific right, a statutory right that is included in this Bill, specifically for the purposes of that protection. ‘Rights under this part’ are set out in what is now clause 45M, which says specifically:

460 ‘A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.’

Then 45N deals with complaints to the Industrial Tribunal, a complaint against the employer in respect of any detriment caused to the employment situation as a result of the disclosure.

465 So that is what this Bill is intended to do, to protect a worker in respect of detriment by the employer, arising from any disclosure which is listed.

It is important to remark and to reassert that anybody has the absolute right to make any disclosure of the type which is listed under ‘qualifying disclosure’ – *anybody* can do that – but what this does is go further than that and say *if* you do that *and* you are subjected to a detriment, that is a breach of a specific right which you have under the Bill and you can present a complaint to the Industrial Tribunal. Therefore, it is clear that it is in that context and that right exists in the employment scenario.

470 But I am happy to give way, if the hon. Member wants me to.

Mr Speaker: The Hon. Daniel Feetham.

475 **Hon. D A Feetham:** I am very grateful to him for his contribution, which is always constructive. (*Interjection*) Look, there is a distinction here – (*Interjection*) There is a distinction between context and whether a particular disclosure is actually circumscribed by the principal Act. I accept that the context is the Employment Act, the context is a worker making the disclosure. I accept all that; but what I do not actually see in this Bill – and that is why we are concerned about it... Let me say that our concerns are not concerns that I have just simply thought about last night, looking at this Bill. I actually sat down with the Leader of the Opposition and looked at this and we were very concerned about the width of the disclosures, and also in particular clause 45C(b).

480 There is nothing in this Bill that actually circumscribes the nature of the disclosure and 45C(b) actually goes further. It is not even disclosure to the employer; it is disclosure to another person. All I am saying here, in relation to this, is if you want the support of the Opposition, let us make it absolutely clear that that is the context. I have suggested some language that you may wish to consider. There may be other language that the Government may want to propose.

485 I do not want to drag the point, but those are the concerns. I think that they are valid concerns and, at the present moment, taking into account this Bill, it does allow for disclosures that are wider and potentially, I think, there is a potential of misuse of the Bill.

490 The Chief Minister has said the courts can take into account debates in Parliament; but we all know that there are specific principles involved in relation to whether courts can take into account, in statutory interpretation, debates in *Hansard*. With respect, it is not as simple as what the Chief Minister has outlined to this House.

495 I think it is a simple point. Let’s just make the Bill clear, that it relates to these kind of circumstances and then it will enjoy the support of the Opposition – otherwise I am afraid that it will not.

500 **Hon. G H Licudi:** Mr Speaker, the hon. Member talks about context. It is not just the context; it is the specifics. It is the substantive issues that arise and what the hon. Member says – and he should reflect on what he is saying – his specific words are ‘this does allow for disclosures that are wider than necessary in the employment situation and permits abuse’.

This is not a Bill which is intended to proscribe – in other words, to limit – any behaviour that any of us are perfectly entitled to do today. So what disclosure is wider under this Bill than what I can do today by going to the Police and reporting a criminal offence or by making any other disclosure in respect of the six or the five items that are listed under ‘qualifying disclosure’? There is no limit. There is no
 505 proscription in any law, except possibly a confidentiality clause, rules of defamation, but other than those limits which are set out by law, other than those issues which are part of the general framework of our legislation and our common law system, *anybody*, whether a worker or not a worker, can make any disclosure of the kind described in this Bill.

So that is not what this Bill is about. This Bill is not about describing the types of disclosure that you can make; it is simply about giving a right to a worker of protection from detriment by your employer, *if you make* a disclosure that you can make in any event, regardless of this Bill. So you can go out, a worker or non-worker, in the street today and make this disclosure – nothing happens. But if you are subjected as a worker to a detriment by your employer, this Bill provides protection. It gives you an absolute right not to be subjected to detriment and a right to make a complaint against your employer in the Industrial
 510 Tribunal. That is what this Bill is about and not about allowing or disallowing disclosure.

So with the greatest respect – and I acknowledge the contribution that the hon. Member has made and it is clearly well intended and well meaning, with a suggestion of an amendment – but as the Hon. Chief Minister said, it is absolutely not necessary, because we do not want to give any sort of impression, in this Bill or otherwise, that we are limiting the rights of citizens out there in the street to make disclosures in the public interest. *Everybody* can do that, but workers who do that should not be subjected to a detriment in the context of their employment. That is what this Bill does.

Mr Speaker: Does any other hon. Member wish to speak on the general principles and merits of the Bill?

525 Does the mover of the Bill wish to reply? The Hon. the Minister for Employment.

Hon. J J Bossano: Well, Mr Speaker, first of all, we have got a manifesto commitment and therefore, we are going to implement what we committed to in the manifesto. If the Opposition wish to vote in favour, they can and if they wish to vote against, so be it.

530 Let me say that I have got here the UK law that was passed in 1998. The hon. Member has spent many years in the United Kingdom. I have never come across anybody in the United Kingdom arguing that the UK law should be changed since 1998, which is in fact 14 years, because there was a danger that this law might be used for anything other than what it was intended. In fact, the provisions are identical, down to the last full stop and comma – in fact, the United Kingdom law, section 43B, ‘Disclosures qualifying for protection’, broken down in (a) to (f) are an exact replica, because of course it has been copied from it –
 535 of 45B(1)(a) to (f). So the answer is we see no reason to depart from what has been in place in the law of the United Kingdom since 1998 and in which, in our view, is long overdue and should have been here, and the previous Government should have done in the 15 years they were there. It came into the legislation of the United Kingdom two years after the 1996 election.

540 Strangely enough, they have provided, in fact, similar protection by regulation for employees of European companies and apparently they did not see anything wrong with the wording they put there. This was done by them in 2005 and amended by me in 2012, as a result of a Directive that was amending the previous Directive which required it. They had no choice of course – it was EU law. But I find it odd that they should have decided in 2005 to give protection to people who work for European companies but not to the workers of Gibraltar and Gibraltarian companies. (**A Member:** Hear, hear.) (*Banging on desks*)

545 In addition, there is a very important area here, in terms of the work of the Employment Service. I am sure that anybody on that side who was previously working in the Employment Service will know that the problem that exists with people who are not being paid the legal wage is that there is no protection in the law of Gibraltar against an employer that is not paying the legal minimum wage. For example, we have
 550 got a legal minimum wage now of £5.70 and if somebody is paid less, the Labour Inspectors, if they can find the evidence, can require the employer to pay it and in fact we can prosecute it, because it is a criminal offence not to be doing it. They are breaking the legislation which is there to protect good employers against bad ones, as well as protecting employees. But the employee who reports this is not protected against dismissal in the first 52 weeks of his work, so nobody will come forward, and even after the 52 weeks they do not come forward. So people get told quite openly, ‘If you don’t like the wage, there is the door’, and there is nothing they can do because we do not protect them.

555 With this law somebody can, in their first week of employment, go to the Employment Service and say, ‘This is what my employer is doing’, and if he gets sacked, even though he has not had 52 weeks of continuous service, this law gives him immediate protection. That, I hope, will have an immediate effect
 560 in ensuring that those employers who have not been able to get to comply with the law in the past will comply with the law in the future.

565 I see the main effect of this legislation, in fact, in ensuring that workers who are in the private sector and are not receiving what the law entitles them to will be able to come forward as soon as this is on the statute book and the Employment Service and the Labour Inspectors will be able to *ensure* that those workers are protected, that the law is observed, and those workers will then be entitled, if they are suffering detriment, in the sense that they are sacked as a result of coming forward and giving the evidence, they are protected because it then is an automatic unfair dismissal and there is no limit to the compensation.

570 So I commend the Bill to the House. (*Applause*)

Mr Speaker: I now put the question, which is that a Bill for an Act to provide protection for employees and other workers who disclose information in the public interest be read a second time. Those in favour; those against.

575 *Members voted as follows:*

FOR	AGAINST
Hon. P J Balban	Hon. D J Bossino
Hon. J J Bossano	Hon. Mrs I M Ellul-Hammond
Hon. C A Bruzon	Hon. D A Feetham
Hon. Dr J E Cortes	Hon. S M Figueras
Hon. N F Costa	Hon. J J Netto
Hon. Dr J J Garcia	Hon. E J Reyes
Hon. G H Licudi	
Hon. S E Linares	
Hon. F R Picardo	
Hon. Miss S J Sacramento	

590 **Mr Speaker:** Carried. (*Interjections*) I counted it as six.

Hon. G H Licudi: So there is only one, *no*?

Mr Speaker: I counted it as six.

595

**Employment (Public Interest Information) Act 2012
Committee Stage and Third Reading to be taken at this sitting**

600 **Clerk:** The Employment (Public Interest Information) Act 2012.

Mr Speaker: Does the Hon. Minister want the Committee Stage taken today? (*Laughter and interjections*)

605 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all Members agree.

610 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today?

Members voted Aye.

Mr Speaker: The Committee Stage and Third Reading of the Bill will be taken today.

615

COMMITTEE STAGE

620 **Public Health (Amendment) Bill 2012
Smoke-Free Environment Bill 2012
Supreme Court (Amendment) Bill 2012
Employment (Public Interest Information) Bill 2012**

625 **Clerk:** Committee Stage and Third Reading. The Hon. the Chief Minister.

630 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: the Public Health (Amendment) Bill 2012; the Smoke-Free Environment Bill 2012; the Supreme Court (Amendment) Bill 2012; and the Employment (Public Interest Information) Bill 2012.

In Committee of the whole Parliament:

635 **Public Health (Amendment) Bill 2012**
Clauses considered and approved

Clerk : A Bill for an Act to amend the Public Health Act.
Clause 1.

640 **Mr Chairman:** Clause 1 stands part of the Bill.

Clerk: Clause 2.

645 **Mr Chairman:** Clause 2 stands part of the Bill.

Clerk: The Long Title.

650 **Mr Chairman:** The Long Title stands part of the Bill.

Smoke-Free Environment Bill 2012
Clauses considered and approved

655 **Clerk :** A Bill for an Act to prohibit smoking in certain places, premises and vehicles.
Clause 1.

660 **Mr Chairman:** Clause 1 stands part of the Bill.

Clerk: Clause 2.

Mr Chairman: Clause 2 stands part of the Bill.

665 **Clerk:** Clauses 3 to 5.

670 **Hon. Mrs I M Ellul-Hammond:** Mr Chairman, for the sake of clarification, can the Hon. Minister say if it will be considered... There is no provision for activity in the area. No provision of activity has been taken into account, for example, the eating in a conservatory and whether that would be considered...

675 Yes, a concern was felt that if an area was designated where smoking was allowed, for instance a covered area outside a restaurant, and we have received representations from the public where they felt uncomfortable with having a smoker on the table next to theirs while they were eating, and there is no provision for activity in those areas within these sections.

Minister for Health and Environment (Hon. Dr. J E Cortes): Mr Speaker, this relates to premises and not activity.

680 An area outside a restaurant could well be considered an enclosed area because even though it is a temporary awning, if there is sufficient cover along the sides, and it is defined in the Bill – I believe it is more than 50% of the sides, excluding doors and windows – that is considered an enclosed space. So even outside a restaurant, if it were significantly enclosed, that would be prohibited. If it is completely unenclosed, then that would not be prohibited and not covered in this Bill, although I believe there are moves elsewhere and perhaps we would catch up with that later.

685 But at this point in time the activity does not fall within the confines of this Bill.

Hon. S M Figueras: Mr Chairman, we have only raised the concern in the context of the developing trend that is becoming apparent elsewhere and certainly just to put it in mind, although you may well have... you indeed already seem to have had it in mind, of such developments.

690

But I am grateful for the discussion of this [*inaudible*].

Hon. Dr. J E Cortes: Yes, it is something that *may* develop in other countries and we will want to keep abreast with that and not have to catch up afterwards.

695

Hon. D J Bossino: Mr Chairman, could the Minister just assist me for one moment? What provision does he say is defined in the Bill?

Hon. Dr. J E Cortes: What I said is that it determines what an enclosed space is. For example –

700

Hon. D J Bossino: It has just been identified to me and it is clause 2(3).

Hon. Dr. J E Cortes: – that describes what... that is right.

Mr Chairman: Clauses 3 to 5 stand part of the Bill.

705

Clerk: Clauses 6 and 7.

Hon. S M Figueras: I am sorry, Mr Chairman, sorry.

710

In respect of clause 4, 'Public service vehicles'... (*Interjection by Hon. Dr. J E Cortes*) Yes. In relation to the clause that covers public service vehicles, it just occurs to me something actually we have discussed beforehand, it just occurs to me where such a vehicle is used for those purposes, does this cover smoking in the vehicle when it is not occupied for the purposes of that service – for example, a taxi driver when he has no fares on board. Does this provision cover that instance as well?

715

Hon. Dr. J E Cortes: I think by reading it, Mr Chairman, it is prohibited at all times in any vehicle which is used or is licensed to be used.

720

Hon. S M Figueras: I am grateful, Mr Chairman. I am grateful for the clarification because certainly, obviously, there is an issue relating to the presence of tobacco fumes in vehicles, even for some time after with open windows and doors, and I merely wanted to have that clarifying conversation between us.

Hon. Dr. J E Cortes: And the smell as well within the vehicle, Mr Chairman.

725

Mr Chairman: Are we content with clauses 6 and 7? Clauses 6 and 7 stand part of the Bill.

Clerk: Clause 8.

730

Hon. Mrs I M Ellul-Hammond: Mr Chairman, within the specified premises where smoking is allowed, does this mean that the workers in these institutions can also smoke in these areas or just the residents of those particular rooms or institutions?

735

Hon. Dr. J E Cortes: Again, it defines, Mr Chairman, the areas by space. It is not prohibited in a designated room that is used as... One would have thought that the workers would not be smoking in those rooms, but it actually designates the room where smoking is not prohibited.

740

Hon. S M Figueras: Yes, perhaps, Mr Chairman, on the other side of that and the fact that smoking would be allowed in those rooms, workers in those areas who do not smoke, has the Government considered the issue for employees who are employed in that environment and the affect that that may have on them? Is this something which is obviously not covered in this particular Bill?

745

Hon. Mrs I M Ellul-Hammond: Carrying on from what my hon. Friend has said, for instance, there is protection for workers in clause 6(2). Is there something similar for these – ?

Hon. Dr. J E Cortes: A residential home would be a public space, so it would be covered because it is a public area, an area to which the public is allowed; but the exemption is in those designated rooms (**Hon. S M Figueras:** Yes.) like in a hotel. In a hotel you are not allowed to smoke except in those designated rooms which are designated as smoking.

750 **Hon. S M Figueras:** Yes, but the point we raise is only in respect of the protection of employees having to work in those areas and again, it is not a bone of contention. It is just an issue that we raise, because it is certainly something that has been represented to us on a couple of occasions by some constituents who have identified that it is an issue for these employees in the areas where smoking is allowed.

755 **Chief Minister (Hon. F R Picardo):** Yes. Can I just say, Mr Speaker, perhaps the point is this, and to ask the hon. Lady and Gentleman how it is that they were going to protect workers in the private clubs and restaurants that operated isolated and separately ventilated smoking rooms, where they *would* have allowed smoking?

760 You see, the policy that is being given effect to by these two Bills actually takes into consideration that even in letting bars, restaurants and private clubs who have isolated rooms to allow smoking, which our Bill does not but theirs would have, you would have been exposing employees to smoking.

So the only people sitting in those areas to have their meals would be those who wanted to sit in smoking areas, but the employees would not necessarily have wanted to be in smoky environments, but if they had the job in that restaurant or that private club, they would have been exposed to smoking.

765 So in the context of what they were committed to doing, employees – smokers and non-smokers – would have been exposed to smoking. In the context of what we are doing, there is a very tight control in respect of where that exposure will occur is much tighter than this would have allowed.

So that is the issue, I think, to try and reconcile.

770 **Hon. S M Figueras:** Mr Chairman, with respect to the Chief Minister, I did say, the moment before he made his contribution, that this is not a matter of contention between us. It was something that I was certainly highlighting or that had come to our notice, post the election and post those commitments, which in any event are irrelevant today, in the extent that this is a policy that is now being pursued by the Government and which we are commending the Government for.

775 Again, it is just an issue we are highlighting for discussion, or perhaps just to bear in mind again as part of the development of this policy.

Hon. Dr. J E Cortes: Mr Chairman, obviously we show great concern for the workers, but I think we have to focus this, as the Chief Minister has said, in that we have gone the whole hog, so to speak. We have to look at it the other way around.

780 This is an exemption to allow people who are in care homes, hospices, maybe in prison, who have to be there long term, who may already be smoking, to allow them some kind of exemption because they have no choice but to be there and one would have thought that any worker who has to enter those rooms would do that for relatively short periods of time.

785 But the focus here is on the people who actually have little choice but to be within those rooms.

Hon. Mrs I M Ellul-Hammond: Mr Chairman, clause 8(3)(c):

'has a ventilation system that does not ventilate into any other parts of the premises...'

790 How will this subclause work in existing premises?

Hon. Dr. J E Cortes: The ventilation would have to go outside the building. It would have to suck it outside the building. It would have to be done in such a way that the ventilation was not just circulated into another part of the building. *(Interjections)*

795 **Mr Chairman:** Before we leave clause 8 should not, in subclause (3), the word 'regulation' be replaced by the word 'Act'? This is an Act. *(Interjections)*

800 **Hon. Dr. J E Cortes:** Mr Chairman, thank you for spotting the deliberate mistake. *(Laughter)*

Mr Chairman: Clause 8, as amended, stands part of the Bill.

Clerk: Clauses 9, 10 and 11.

805 **Hon. Mrs I M Ellul-Hammond:** Mr Chairman, in clause 11(2), does that include clubs' premises?

Hon. Dr. J E Cortes: It says that this part does not extend in a place where retail of alcohol is allowed, so that includes any place where retail of alcohol for consumption is allowed.

810 **Hon. Mrs I M Ellul-Hammond:** Yes, the only reason I raise it is that we assume this has been taken based on the UK legislation, i.e. the Health Act 2006, and in that Act, in section 3B, it does specify, as it says in subclause (2), authorising for sale by retail of alcohol for consumption, but it also has a separate subclause saying:

815 'premises in respect of which a club premises certificate has effect.'

Hon. Dr. J E Cortes: That is not included here.

820 **Hon. Mrs I M Ellul-Hammond:** That is not? Do our clubs come under a different regime, or it is taken as read then that clubs would come under...?

Hon. Dr. J E Cortes: It is taken as read that they would come under this one if they sell alcohol.

825 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Chairman, just a minor matter: clause 11(1) reads:

'The Minister with responsibility for health may make regulations providing smoking not to be prohibited.'

830 It should probably read 'may make regulations providing *for* smoking not to be prohibited.'

Mr Chairman: So we add the word 'for' between 'providing' and 'smoking'.
Yes.

835 **Hon. Mrs I M Ellul-Hammond:** Mr Chairman, clause 11(6): is there a particular policy in that regard, and will there be guidelines?

840 **Hon. Dr. J E Cortes:** Mr Chairman, the policy is subclause (6), that before I consider making any regulations for exemptions, I feel that I need the advice of the person who is qualified in these areas, the Director of Public Health, to advise me of public health consequences. I feel that it is a safeguard to public health that the Director should be consulted, before I take it upon myself to make an exemption.

Mr Chairman: Are we content with 9, 10 and 11? Clauses 9, 10 and 11 stand part of the Bill.

845 **Clerk:** Clauses 12 and 13.

Mr Chairman: Clauses 12 and 13 stand part of the Bill.

Clerk: Clauses 14, 15 and 16.

850 **Mr Chairman:** Clauses 14 to 16 stand part of the Bill.

Clerk: The Long Title.

855 **Mr Chairman:** The Long Title stands part of the Bill.

**Supreme Court (Amendment) Bill 2012
Clauses considered and approved**

860 **Clerk:** A Bill for an Act to amend the Supreme Court Act.
Clause 1.

865 **Mr Chairman:** Clause 1 stands part of the Bill.

Clerk: Clause 2.

870 **Hon. E J Reyes:** Mr Chairman, I run the risk of being a little bit over pedantic, but in the suggested amendment by the Minister for Justice where he is, in effect, asking us to include the words 'or his being a justice of the peace', my first reaction is the nomenclature 'justice of the peace' is probably a proper noun – should it not carry a capital J and a capital P in the same way that in a previous Bill, when we referred

to Minister with capital M and to the Director of Public Health, who was capital D for Director and so on?

875 It is a small pedantic thing, but coming from the teaching profession, I sometimes am overkeen in trying to get this thing right. (*Laughter*)

880 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Chairman, my recollection is that in the Magistrates' Court Act the definition of 'magistrate' says it includes a justice of the peace, and that uses small *j* and small *p*, but that is only recollection. I believe that is the case.

Clerk: Clause 2.

885 **Mr Chairman:** There are amendments moved by the Minister.

Hon. G H Licudi: Yes, Mr Chairman. In clause 2(3), I would ask that for the words, and I quote:

"the only reason for his disqualification from being a juror is his age"

890 we should substitute:

"the reason for his disqualification from being a juror is his age or his being a justice of the peace."

895 In clause 2(4), for the words:

“(other than by virtue of his age)”

we should substitute:

900 “(other than by virtue of his age or his being a justice of the peace)”.

Those are the only two amendments that I propose.

905 **Mr Chairman:** Clause 2, as amended, stands part of the Bill.

Clerk: The Long Title.

Mr Chairman: The Long Title stands part of the Bill.

910

Employment (Public Interest Information) Bill 2012 Clauses considered and approved

915 **Clerk:** A Bill for an Act to provide protection for employees and other workers who disclose information in the public interest. Clause 1.

Mr Chairman: Clause 1 stands part of the Bill.

920 **Clerk:** Clause 2.

Mr Chairman: Clause 2 stands part of the Bill.

925 **Hon. D A Feetham:** Mr Chairman, to go back to clause 2, can I ask the Hon. the Minister just to explain, in relation to 45C(1)(b), where it says:

930 'where the worker reasonably believes that the relevant failure relates only or mainly to –
(i) the conduct of a person other than his employer, or
(ii) any other matter for which a person other than his employer has legal responsibility to that other person.'

– what circumstances does that clause envisage?

935 **Minister for Enterprise, Training and Employment (Hon. J J Bossano):** I would imagine, Mr Speaker, that if you are in a place of employment and you see somebody committing a criminal offence, you do not ignore it just because, in fact, the person who is there may be a customer. If you go to report it to your employer and your employer sacks you because it is bad for business, then you go to the tribunal.

I can tell the hon. Member that that is also in UK law.

940 **Hon. D A Feetham:** Well, look, he has not provided me with the explanation, but in any event, we have had the debate.

945 **Hon. J J Bossano:** Mr Speaker, he has asked me to give him an example, which is... I have invented one on the spot for his benefit. I do not know what more he wants me to do for him.

Hon. D A Feetham: But that example cannot really be apposite, no. If you have a customer and the customer is doing something, you report it to the employer. Here, what we have is:

950 '(i) the conduct of a person other than his employer, or
(ii) any other matter for which a person other than his employer has legal responsibility, to that other person.'

955 I do not know what that particular section actually goes to. I can understand, according to the debate that we have had and the rationale that you have provided and the Minister for Justice has provided, that you may make a disclosure to your employer about something occurring within the context of the employment organisation, but (b)... I am not sure what (b) is actually intended to do.

960 **Mr Chairman:** As a lawyer, I would say a superior officer who is not an employer. Someone in between the chain of command. That would be his superior officer –

Chief Minister (Hon. F R Picardo): I am happy to give another example, if the hon. Gentleman likes.

965 If you have a situation where, for example, a law firm calls in a firm of accountants to do a job, the individual who comes in from the accountancy firm works for the accountancy firm. He may spot something in the law firm which he believes is contrary to law and he reports it, in this context, to the head of chambers at the law firm, not to his chief executive officer in the accountancy firm. That is covered by this clause.

970 **Mr Chairman:** That would be covered by the normal audit practice, anyway.

975 **Hon. Chief Minister:** Well, it might be, Mr Speaker, but what this does is that the accountant reporting the matter to the head of chambers cannot be sacked by the chief executive of the accountancy firm for having taken that step. If the head of chambers is very annoyed as a result and makes a complaint to the accountancy firm, or such other circumstances as might stem from that, it protects the employee of the accountancy firm, principally from the accountancy firm, for having taken that step in reporting something to the head of chambers.

Mr Chairman: Clause 2 stands part of the Bill.

980 **Clerk:** The Long Title.

Mr Chairman: The Long Title stands part of the Bill.

985 *The House resumed.*

BILLS FOR THIRD READING

990 **Public Health (Amendment) Bill 2012**
Smoke-Free Environment Bill 2012
Supreme Court (Amendment) Bill 2012
Employment (Public Interest Information) Bill 2012
995 **Third Readings approved; Bills passed**

Clerk: The Hon. the Chief Minister.

1000 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Public Health (Amendment) Bill 2012; the Smoke-Free Environment Bill 2012; the Supreme Court (Amendment) Bill 2012; the Employment (Public Interest Information) Bill 2012 have been considered in Committee and agreed to, with amendments, and I now move that they be read a third time and passed.

1005 **Mr Speaker:** I now put the question, which is that the Public Health (Amendment) Bill 2012, the Smoke-Free Environment Bill 2012, the Supreme Court (Amendment) Bill 2012 and the Employment (Public Interest Information) Bill 2012 be read a third time and passed.

Those in favour of the Public Health (Amendment) Bill 2012; (**Members:** Aye.) Those against. Carried.

Those in favour of the Smoke-Free Environment Bill 2012; (**Members:** Aye.) Those against. Carried.

1010 Those in favour of the Supreme Court (Amendment) Bill 2012; (**Members:** Aye.) Those against. Carried.

Those in favour of the Employment (Public Interest Information) Bill 2012; (**Members:** Aye.) Those against. Carried by majority. (*Interjection*) Only against the Employment.

1015 **Hon. Chief Minister:** I think, purely by inadvertence – but, for the purposes of *Hansard* – that the hon. Member voted against the Supreme Court (Amendment) Act.

Mr Speaker: No.

1020 **Clerk:** That is how it sounded. (*Interjections*)

Hon. D A Feetham: There appears to be a division on your side of the House as to whether I voted against.

1025 **Hon. Chief Minister:** Mr Speaker, let's be clear: the hon. Gentleman, when the noes were called, made a noise. He may have made an 'aye-no' noise, but he made it when the noes were called. (*Interjection*)

For the purposes of *Hansard*, can we just clarify that the Supreme Court (Amendment) Act has gone through unanimously?

1030 **Hon. D A Feetham:** Mr Speaker, absolutely. I indicated during the debate on the merits that we were voting in favour of it. I commended the Hon. the Minister for Justice on something that needed to be done, and that is the position of the Opposition. There appears to be division on your side, even on that!

1035 **Hon. Chief Minister:** When the Speaker called 'all those against' or called for the noes, the hon. Gentleman said 'Aye', and that –

Hon. D A Feetham: At that point.

1040 **Hon. Chief Minister:** – and that, for the purposes of *Hansard*, can be very confusing, so I think it is important that this should be clarified.

1045 **Mr Chairman:** My understanding was that the first three Bills were passed unanimously and the last Bill was passed by a Government majority. (*Interjections*) I had to prod them into voting against.

Questions for Oral Answer

1050 **EQUALITY AND SOCIAL SERVICES**

**Care Agency staff
Training and Development Programme**

1055 **Clerk:** Answers to Oral Questions continue.

Question 770/2012, the Hon. J J Netto.

1060 **Hon. J J Netto:** Mr Speaker, can I just say, before reading the Question, that with hindsight, having written the Question and submitted it, and when I actually saw it again, I came to the realisation that it is excessive in length. It is not intended to set a precedent, obviously, in the future, and obviously I shall take it into account that in the future it is not as excessive as this one. It is not intended to be so.

1065 **Mr Speaker:** My initial view, on reading this Question, was it *was* excessive and contrary to Standing Orders, but then I took the view that, if I had drawn it to the Hon. Member's attention, it would have been substituted by 32 Questions and, in all probability, several of them would be answered together. So without setting any precedent, it was allowed on this occasion.

1070 **Hon. J J Netto:** I am grateful and obviously it was not intended to be excessive in nature. Having said that, if I may continue then, with your ruling, Mr Speaker –

Chief Minister (Hon. F R Picardo): If I can assist the hon. Gentleman –

Mr Speaker: The Hon. Chief Minister.

1075 **Hon. Chief Minister:** If I can assist the hon. Gentleman, if he will give way, we are happy to take that Question as read, because I know it is a very long question for him to have to read into *Hansard*.

Mr Speaker: I am told *Hansard* needs a full recording.

1080 **Hon. Chief Minister:** Because now... Sorry, well, we were prepared to take it as read, but now that it is a recorded *Hansard*, I am afraid that it is –

1085 **Hon. J J Netto:** Could I propose a hybrid. Could I propose the beginning and the end? Would that be sufficient?

Mr Speaker: No, I am told by the Clerk... I did discuss this with the Clerk before we sat. I am told that for *Hansard* purposes, I am afraid the hon. Member will have to expend energy.

1090 **Hon. J J Netto:** I shall have my friend to fill a glass of water here for me! (*Laughter and interjections*)

1095 Mr Speaker, can the Minister for Social Affairs state if the Staff Training and Development Programme for the Care Agency staff for 1st April 2012 to 30th March 2013 contains any of the following: (1) General Information; (2) Staff Training Record; (3) Application for Training Forms (Training outside Care Agency); (4) Internal Training Request Form; (5) Training Evaluation Form; (6) Proposals for Training Form; (7) Training Timetable; (8) Presentation Skills Course; (9) DCRT-Conflict Resolution Training (Level 1 Trainers Update); (10) Missing Persons Training; (11) DCRT-Conflict Resolution Training (Level 2 Train the Trainer); (12) Safeguarding Vulnerable Adults-Policy & Procedure Training; (13) Within the Generic Core Training-Timetable: (a) Introduction to the Care Agency; (b) Health and Safety, Food Hygiene and Infection Control; (c) Values, Attitudes and Beliefs; (d) Professional Boundaries; (e) the Importance of Carer Workers and Caring; (f) DCRT-Conflict Resolution Training (Level 1); (g) Effective Communication; (h) Safeguarding Vulnerable Service Users; (i) Manual Handling Training; (j) Accountability, Responsibility and Medication Training (Assessed); (k) Fire Safety, EVAC Chair and Anglia Blanket; (l) Emergency First Aid at Work; (m) Customer Care; (n) Alcohol/Drug Abuse-Awareness and Policies in the Care Agency; (o) DCRT-Conflict Resolution (Level1-Refresher); (p) Manual Handling, EVAC Chair/Anglia Blanket, Basic Life Support (Refresher Course); (q) DCRT-Conflict Resolution Training (Level 2); (14) Headway-Acquired Brain Injury – Challenging Behaviour; (15) Headway-Acquired Brain Injury – Understanding the Brain, its physical, cognitive, behavioural and emotional effects (Day 1); (16) Headway-Acquired Brain Injury – Challenging Behaviour (Day 2); (17) the 12-hour Paediatric First Aid Course; (18) Emergency First Aid at Work (1 day); (19) People Handling and Risk Assessment Key Trainers Certificate and Children; (20) Handling supplementary day (5 days Trainer the Trainer course); (21) Basic Life Support – Train the Trainer; (22) Mentorship for Practice (5 days); (23) Eastern Beach Mobility Assistant Induction Training; (24) Level 3 Chartered Institute of Environmental Health Accredited – Health and Safety in the Workplace (days); (25) BVS Online Training; (26) NVQ A1 Assessors course (Level 3); (27) NVQ Health and Social Care Levels 2 and 3; (28) Children Act Training; (29) 12-hour Paediatric First Aid Course; (30) Makaton Training; (31) ILM (Institute of Leadership and Management) Level 2 Award in Team Leading; and (32)

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if any of the above have not been included, which one(s) is/are they, and if there is/are additional item(s) which is/are over and above those listed above, which one(s) is/are they?

1120 **Clerk:** Answer, the Hon. the Minister for Equality and Social Services.

Minister for Equality and Social Services (Hon. Miss S J Sacramento): Mr Speaker, I am grateful to the hon. Member for acknowledging that his Question and the format is in fact in breach of Standing Orders. Perhaps it may have been easier if this was a Written Question.

1125 In any event, Mr Speaker, let me start off by saying – although, of course, I am sure that this was an innocuous mistake – but I think that, for the record, I want to make it clear that my title is the Minister for Social Services and not Social Affairs, which is what the – (**Several Members:** Ooh!) For the sake of *Hansard*, Mr Speaker.

1130 **Mr Speaker:** Valid point.

Hon. Miss S J Sacramento: I assume that the information contained in this Question is from the 2011 Training Manual, which the hon. Member has retained and I can confirm that the above mentioned has been included in the Care Agency Staff Training and Development Programme for the Care Agency for 1st April 2012 to 30th March 2013, with the exception of numbers (3) and (5), because they have been updated and amended; (8), (10), (11), (12), (14), (17), (19), (20), (23), (24) and (27) to (31) because they were specific service requests for that time period.

1135 Items (13)(e), (g), (h), (n) and (q) have been updated and delivered as part of another session and are now done as in-house training.

1140 Additional items have been included in this programme. I am now handing the hon. Member a list of additional items.

ANSWER TO QUESTION 770 OF 2012

Additional items included in the Programme are as follows:

Form 1 – In-house Training
Form 2 – Application Form for NVQ Assessors Course
Form 3 – Application Form for NVQ Level 2 in Health and Social Care
Form 5 – Application for External Training
Form 7 – Union Training (approved Leave form)
Form 8 – Online Training
Care Agency Course Evaluation Form (revised)

As part of the Generic Core Training:

- Introduction to Personal Development
- Principles of Safeguarding and Protection in Health and Social Care
- Introduction to the Role of the Health and Social Care Worker and Duty of Care
- Equality and Inclusion
- Introduction to Communication in Health and Social Care and Handling Information.
- Implementing Person-Centred Approaches in Health and Social Care
- Meeting the Needs of our Service User's
- Practical Skills

First Aid at Work (3 days)

Level 2 Award in Food Safety and Food Hygiene from the Chartered Institute of Environmental Health (UK)

Level 2 Award in Environmental Principles and Practice (Chartered Institute of Environmental Health)

Level 2 Award Principles of Risk Assessment (Chartered Institute of Environmental Health)

British Sign Language Course – Level 1

EVAC Chair – Key Trainer Course

Manual Handler Train the Trainer Course

Manual Handling Trainers Refresher Course

Basic Life Support Trainer Refresher Course

First Aid at Work – 2 day Refresher Course

Charlie Bloe Online Training

Social Care Institute for Excellence E-learning

Cont.....

ANSWER TO QUESTION 770 OF 2012

NVQ Health and Social Care Level 2

Additional Supplements to Training and Development programme since April 2012

Additional Generic Core Training Programme

Train the Trainer Safeguarding Adults at Risk Basic Awareness training programme

Venepuncture Assessor Course

Basic Excel Computer Course

Intermediate Excel Computer Course

1145

HOUSING AND THE ELDERLY

**Mid Harbour Estate
Maintenance**

1150

Clerk: Question 771, the Hon. D J Bossino.

1155

Hon. D J Bossino: Mr Speaker, I am asking this Question, although I do not have shadow responsibility for housing, only because my hon. Friend, Mr Reyes, was away at the time and we wanted, as an Opposition, to submit this Question for tabling for Oral Questions in this House. Just to explain that to those listening in.

1160

Can the Minister for Housing advise this House what arrangements are in place in relation to the general upkeep and maintenance of the Mid Harbour Estate, to include, in particular, the replanting of the flower beds, the re-installation of the gym equipment and the children's play area?

Clerk: Answer, the Hon. the Minister for Housing and the Elderly.

1165

Minister for Housing and the Elderly (Hon. C A Bruzon): Mr Speaker, with regard to the general upkeep and maintenance of the Estate, this is carried out by GJBS. The replanting of the flower beds is carried out by Greenarc, as part of the initial contract.

The department responsible for the maintenance of all play areas, including gym equipment, is the Gibraltar Sports and Leisure Authority, who are currently involved in carrying out the necessary repairs in connection with the gym equipment and the children's play area.

1170

Hon. D J Bossino: I understand from representations which have been made to us as a party that the play area is not yet ready and, furthermore, that the gym equipment – or the fitness equipment may be a more appropriate term to use, in these circumstances – I understand it is equipment which is used by people outside and not in an enclosed area – is not yet available and is still currently in a store room.

1175

So in the light of those prevailing facts, I would ask the Hon. Minister if he could advise when he thinks these two aspects within the Estate will be complete and ready for use.

1180

Minister for Sports, Culture, Heritage and Youth (Hon. S E Linares): Mr Speaker, if I may, I will answer that question, because it is the Gibraltar Sports and Leisure Authority which is in charge of the playground and the fitness area and yes, he is right it is not in place yet. Unfortunately, it needed to be lifted because of water penetration on the parking spaces underneath.

1185

What happened was that it was done in such a rush and so quickly to be put on the podium, that advice given to the GSLA not to place it there was ignored and therefore they did place it there, which meant that the bolts that were holding the play area plus the gym equipment penetrated what was a layer of tarmac or tarmacking underneath the podium and therefore has now created the problem of water penetration underneath.

1190

So what has happened is that, when I went there, the solution to the problem was to lift everything off, get the contractors to put a new tarmacking underneath and then, therefore, place these things in the right way, so that there is no penetration through the tarmac and no penetration of water underneath.

So there has had to be extensive works that have to be done because the professionals' advice previously was not listened to and therefore this is the consequences of the delay.

Hon. D J Bossino: I hear what the Minister says and I cannot necessarily rebut what he is saying specifically in his initial words in his reply, where he says 'because of the rush' – I am not in a position to refute that or otherwise, but it is certainly something I will investigate.

1195

Mr Speaker, I am not sure that the supplementary has been answered, which is when does the Hon. Minister for Housing – or in this case perhaps, the hon. Member with responsibility for Sports – thinks that these amenities will be available?

1200

Hon. S E Linares: Mr Speaker, as soon as is possible and I am talking – pardon? (*Interjection*) No, I cannot give you the time, because then you will hold me to the time, basically; but I am telling you that I am pressing, I can assure you that I am pressing both the GSLA, the contractors and anybody who is responsible to put that back, to put it as soon as possible. I am pressing on that.

1205

I am hoping that it will be weeks, rather than months, so I can give you that indication, because what happens is that I am pressing as much as I can, but it is a physical thing. If it is not ready, it is not ready, but I can tell you because I am aware that children there cannot use the playground and I am aware that people who used to use that training facility and the gym cannot use it. So, as Minister, I want it ASAP.

Mr Speaker: The Hon. Edwin Reyes.

1210

Hon. E J Reyes: May I, Mr Speaker, come back to the Minister for Housing, who kindly told us that the general upkeep and maintenance for the Mid Harbour Estate was undertaken, those tasks were undertaken by GJBS. Just for the sake of clarity, does that include the replacement of the fused light bulbs, which has been a cause of previous questions in the past? The Minister at that time was not exactly sure. Maybe he has been enlightened now in respect of light bulbs.

1215

Hon. C A Bruzon: The replacing of a light bulb will be done by our technical staff in the City Hall, I am sure. If it is something major, then of course we will involve GJBS.

1220

Hon. D J Bossino: The reason we are asking is because I am not sure if the Minister is aware – I am sure he himself may have been at the receiving end of representations, as indeed we have – as to the general state of the Estate. Does he have any information with regard to this and can he supply us with any information with regard to this? Is he concerned that the Estate may not be up to scratch, in terms of maintenance and the like?

1225

Hon. C A Bruzon: I am not quite sure what you mean by 'the general state' of the Estate – if you could define that a little more clearly?

1230

Hon. D J Bossino: There have been complaints in relation to the inordinate amount of time, we believe, it takes for repairs to be undertaken – like, for example, my hon. Friend referred to, the fixing of light bulbs. I raise that as one specific example.

1235

Hon. C A Bruzon: I was not aware that it takes such a long time, but I can confirm to the hon. Gentleman that I will be meeting the Committee, and I am sure that they will raise points, such as the one you have raised now. As I say to all the other representatives from different Government estates, these simple issues should be addressed immediately and there should be no delays.

So that is the message I want to convey to you and to the tenants of the Estate.

1240

Hon. D J Bossino: Yes, those are, indeed, simple issues which ought to be addressed as quickly as possible. But I would ask the Minister – given that he has indicated that he will be meeting the Committee of the Estate – as to when he... Is a meeting scheduled? If so, when is that meeting to take place?

1245

Hon. C A Bruzon: The date is not scheduled yet, but we have been in correspondence and my secretary will be contacting them soon to arrange a date, probably mid to end of October.

Flats currently empty and awaiting repairs Details

1250

Clerk: Question 772, the Hon. E J Reyes.

Hon. E J Reyes: Mr Speaker, further to his answer given in Question 638/2012, can the Minister for Housing state how many flats are currently empty and awaiting repairs, giving a breakdown in respect of:

1255 (a) pre-war and post-war flats; (b) flat size composition; (c) the dates as from when these flats have been empty; (d) the nature of repairs which are required to be undertaken before they may be reallocated?

Clerk: Answer, the Hon. the Minister for Housing and the Elderly.

1260 **Minister for Housing and the Elderly (Hon. C A Bruzon):** Mr Speaker, the information requested has already been published online on the Government website.

Hon. E J Reyes: Mr Speaker, I do not think the full extent of what is requested is available. I did come here to Parliament and went online and checked it and, certainly, the full extent was not available there.

1265 Perhaps we are going to have to agree to disagree, but I did not find the full... I did in respect of other Questions that I have asked in the past, but not in respect of this one, Mr Speaker.

1270 **Hon. C A Bruzon:** I have got a note here that says that these are published in tables at pages 30 and 31 – if you would like to make a note of that. Should the information not be there, obviously if you call my secretary, I would be happy to ask my staff to provide you with the information.

1275 **Hon. E J Reyes:** I think, Mr Speaker, that is the best mutual arrangement we can come to. I will check the tables on pages 30 and 31 and should I experience any difficulties, then I will be in contact with the Minister's office.

**Housing Waiting Lists
Details**

1280 **Clerk:** Question 773, the Hon. E J Reyes.

1285 **Hon. E J Reyes:** Can the Minister for Housing state how many applicants on the Government's Housing Waiting Lists have, since his answer given to Question 651/2012, been allocated a flat, giving a breakdown of the size of home as well as indicating if they pertained to either the Social or Medical Waiting Lists category?

Clerk: Answer, the Hon. the Minister for Housing and the Elderly.

1290 **Minister for Housing and the Elderly (Hon. C A Bruzon):** Yes, Mr Speaker, I will now hand over to the Hon. Member a schedule containing the information requested.
In general I can say that a total of 39 applicants have been allocated a flat.

ANSWER TO QUESTION 773

A total of 39 applicants have been allocated a flat, as follows:

	Medical A+	Medical B	Social A	Waiting List
1RKB	-	-	2	1
2RKB	3	-	1	5
3RKB	-	-	2	15
4RKB	-	1	3	5
5RKB	-	-	-	1
6RKB	-	-	-	-
TOTAL	3	1	8	27

1295 **Housing Waiting Lists
Number of applicants purchasing homes**

Clerk: Question 774, the Hon. E J Reyes.

1300 **Hon. E J Reyes:** Mr Speaker, can the Minister for Housing state how many applicants on the Government's Housing Waiting Lists have, since his answer given to Question 652/2012, been removed

from the waiting lists due to purchasing their own homes and, if any, indicating if they pertained to either the Social or Medical Waiting Lists category?

1305 **Clerk:** Answer, the Hon. the Minister for Housing and the Elderly.

Hon. C A Bruzon: Mr Speaker, none.

1310

Housing rental stocks
Criteria for contracting out repairs/refurbishments

1315 **Clerk:** Question 775, the Hon. E J Reyes.

Hon. E J Reyes: Can the Minister for Housing provide details of his Ministry's criteria for the contracting out of repairs/refurbishments of housing rental stocks?

1320 **Clerk:** Answer, the Hon. the Minister for Housing and the Elderly.

Minister for Housing and the Elderly (Hon. C A Bruzon): Mr Speaker, as the refurbishment etc of flats are of a minor nature, contracts are being awarded on the lowest of a three quote system. Contractors used are all in the Government's approved lists.

1325 **Hon. E J Reyes:** I am grateful for that, Mr Speaker. My understanding is that obviously he is getting three quotes and then going to the lowest in respect of minor repairs. Does that mean that these are in respect of *all* repairs and refurbishments, or only those that the Housing Works Agency have not been able to meet within a certain timescale of tackling the job?

1330 **Hon. C A Bruzon:** This refers to jobs being done by the Housing Works Agency, or by small companies that are engaged to do internal repairs.

1335 **Hon. J J Netto:** If I may. What are the Department's criteria for triggering any particular work to be contracted out to these particular contractors in the approved list? Is it a question that when a report is reported to the reporting office, beyond a certain date when the work is not done that you may have a particular independent category of work perhaps, a set amount of time to allow for the Housing Works Agency to do it; but if it goes beyond that particular reference target date... What are the criteria for saying this would have gone initially to the Housing Works Agency, but now it is going to go to the contractor, in the contractors' approved list? What are the criteria? How does the Department go about determining...?

1345 **Hon. C A Bruzon:** Yes, I believe we have had this question before and I do not know if the answer was unsatisfactory and you want a more accurate answer. The reality is that when jobs are reported... I remember saying to the hon. Gentleman, Mr Speaker, that I have no system in place that says that the job has to be done within a three-month period. I answered him by saying that the situation is such and the urgency is often such, obviously for the tenant, that it is always important that the jobs have to be done as soon as humanly possible. That is the answer that I have to give you again, Mr Speaker... that I have to give the gentleman again, Mr Speaker.

1350 **Hon. J J Netto:** Mr Speaker, I can accept that there may not be any systems in place. I am not suggesting that he is trying to avoid the issue, but clearly someone has to have criteria for saying, 'Well, this particular report which has just been recorded in the Reporting Office is going to go straight to the Housing Works Agency to be done today' or no... Perhaps this particular job, because we know in the Reporting Office, it is something to do with doing a new pair of doors, when we have so many doors
1355 outstanding in the Housing Works Agency to be done, we know it is going to be taking a long time to do. So therefore, rather than take it into the Housing Works Agency, you might as well go straight to the contractor, or else the job is never going to be done.

1360 Someone somewhere has got to have some kind of criteria for determining when the report comes into the Reporting Office, where you send it towards the Housing Works Agency or you send it over to the contractors, and that is what I am trying to establish. We are not inventing the wheel here. Any local authority in the UK, I am sure, with council houses and flats, they have their own system in play and depending on the type of report they would say, 'Well, you know, it takes two weeks for this particular

job to be done by an in-house directly employed labour force or to the contractor.’ These things are well established perhaps in local authorities up and down in the UK.

1365

I accept that there may not be a system in place in Gibraltar, I accept that, but there have to be criteria for determining how long does the tenant wait for a job, depending on the nature of the report, because if something can wait for a while – fine. But there are certain things that cannot wait for a while.

1370

Perhaps if he has not got an answer... I shall leave it to rest there, but perhaps bring it back in a few months’ time to see to give an opportunity when he can have a discussion with his own technical officers, who undoubtedly will tell him that what I am saying exists in the local authorities in the UK, to be able to determine what criteria to use.

So I shall leave it there to rest and perhaps he may take it on board with his own staff to look into the matter.

1375

Hon. C A Bruzon: I will just thank him, Mr Speaker.

I will make an additional comment, of course, that almost goes without saying, that there are urgent cases, like a plumbing problem, which are tackled immediately – that is pretty clear. There are other problems, which I am sure that my technical staff will look at and use their discretion, their expertise, and say, ‘Well, look, let’s get on with this job because this one is more urgent than the other one.’

1380

I cannot offer you at the moment any other... I just leave it to the discretion of the technical people who know exactly what... hopefully, what they are doing and they have to...

We are also undergoing, Mr Speaker, a whole process of reformation and there will be major changes, which I hope sincerely will improve the service to the customer.

1385

Mr Speaker: The Hon. E J Reyes.

Hon. E J Reyes: I am grateful, Mr Speaker. The Hon. Minister for Housing has concluded by saying that there will be many major changes. Changes in respect of procedures? Changes in respect of staffing? Can he shed some light?

1390

Hon. C A Bruzon: Yes, indeed. It has been mentioned before in the past. We are embarking upon changes within the Technical Department of the City Hall and the Housing Works Agency to bring about a merger, which will happen when we are ready, and it will be announced, hopefully, very shortly.

1395

Bath-to-shower conversions Contractor; tender process

1400

Clerk: Question 776, the Hon. E J Reyes.

Hon. E J Reyes: Can the Minister for Housing state which company carried out the recently announced 44 bath to shower conversions at a total cost of around £300,000, averaging circa £6,800 each, as well as indicating if these jobs were allocated through a tender process or otherwise?

1405

Clerk: Answer, the Hon. the Minister for Housing and the Elderly.

Minister for Housing and the Elderly (Hon. C A Bruzon): Yes, Mr Speaker, all the bath-to-shower conversions have been executed by GJBS.

1410

Hon. E J Reyes: Mr Speaker, is the Minister satisfied that – obviously the amount charged for the job, which gives us an average of £6,800 per conversion – the amount of work required can justify that price?

1415

Hon. C A Bruzon: The question does not distinguish between a standard bath-to-shower conversion and works where the OT – Occupational Therapist – is involved, which obviously would be much more expensive and that is why we give the average. All invoices have not yet been received, but the final cost should still be at no more than the £300,000 mentioned.

1420

The explanation that may satisfy the hon. Gentleman is that the bath-to-shower conversions, the normal ones are cheaper than where the OT requires special works to be done within the bathroom. They will be obviously more expensive.

Hon. J J Netto: Could I put the question in a slightly different way perhaps? Given that we know that the average, depending on the particulars, is £6,800 in terms of the cost that the Housing Ministry is

1425 paying GJBS, does that amount of money coincide with the estimates of your staff, the technical staff in-house?

Well, you can put it another way. Whatever work gets done, the estimators just estimate what is the cost to be done, either by the Housing Works Agency or by a contractor. What I am saying is that, if this is what we are paying to GJBS, do those payments coincide with the estimates of your own staff in Housing? Does he know that?

Hon. C A Bruzon: No, Mr Speaker, I do not. Maybe if you give me notice of that question, but you are asking me...

Let me understand and make sure that I understand the hon. Gentleman. We have estimators who go and provide us with the cost of a particular job. You are asking me if the costs given to us by our estimators is more or less than GJBS, or the other way round?

Hon. J J Netto: It is the other way round, in the sense that when a job needs to be done, your in-house technical staff, the estimators, do an estimate and if they have to do a door, or so on – ‘To do this door here, it would last so many days and it would cost so many pounds.’

Regardless whether the job of the door is done by the Housing Works Agency or regardless whether it is done by GJBS or by any other contractor for that matter, at the end of the day, when the job is done and the contractor or the Housing Works Agency invoice the Housing Ministry for the work done, the estimator will see... ‘Well, if my estimate was £200 for the door, but GJBS is charging me £2,000 for the door, there is something wrong here somewhere.’

So, what I am basically asking the Hon. Minister is whether, given what seems at first hand excessive, in terms of the charges being given by all these conversions, do these prices coincide with his own in-house estimates by his own staff?

Hon. C A Bruzon: And as I indicated, I did not know the answer, but the question that I will have to ask my people is: is it just offered to GJBS, period, or do we have a system in place when, for certain jobs, certain bath-to-shower conversions, our technical people contract a private company to do it? I just do not know the answer to that, Mr Speaker, so he will have to maybe either ask me next month –

Hon. J J Netto: No, Mr Speaker, I am not trying in any way to confuse the issue. When something needs to be done by the Housing Ministry, regardless of whether the Housing Works Agency or a contractor, regardless of the contractor, you do not knock on the door of someone saying, ‘Look, I need this to be done and just give me a price.’ The in-house technical staff would know beforehand, before going to the contractor of the Housing Works Agency, what the cost of doing such a thing would be.

When the work gets done by whoever it gets done by, the estimator would have to reconcile to say, ‘Well, if my estimate was £200 to do *x*, why have I received an invoice for £2,000?’ All I am saying is, from the point of view just of accountability and value for money really, are we matching up the payments we are making to contractors or to the Housing Works Agency against our own estimates? That is all I am asking.

Mr Speaker: I think the Hon. Minister did answer that previously, but the hon. Member preferred to put it the other way round, but I think it was answered before the last one.

Hon. J J Netto: Which is?

Hon. C A Bruzon: Yes, as I explained earlier, I think the question that I am now asking myself, for the benefit of the hon. Gentleman, is is the system in place that we just simply give GJBS *all* bath-to-shower conversions, or not? This is something that I do not have an answer for, so if you want to either ask me next month or write to me, I will certainly have no problems in furnishing you with the information when I have an answer. I will be happy to do that.

Hon. J J Netto: I will, Mr Speaker.

1480

**Construction of additional homes
Government intentions
Question withdrawn**

1485 **Clerk:** Question 777, the Hon. E J Reyes.

1490 **Hon. E J Reyes:** Yes, Mr Speaker. I think Question 777, in many ways, needs to be withdrawn because I had given notice of this Question before any announcements were made, and so I think most of the hon. Members on the Government benches at least are aware that Mr Speaker and I did represent this esteemed House in the Commonwealth Parliamentary Conference in Sri Lanka, where we passed on Gibraltar's regards to all concerned. Therefore, Mr Speaker, I am sorry to have wasted your time by having filed this Question.

1495 However, may I indulge a bit of generosity on the Housing Minister's time by saying, from what I have read it seems that Government have passed on these proposed projects to the DPC for guidance, and so on, and they have got some advice back, which has made them then cancel the project. I am a bit confused, and I know the Hon. Minister can enlighten me that way – when did the Development Planning Commission actually consider this project?

1500 **Minister for Housing and the Elderly (Hon. C A Bruzon):** Would it not be better if he asks the Question, Mr Speaker?

Mr Speaker: Yes, perhaps.

1505 **Hon. C A Bruzon:** Do we know what Question he is talking about?

Hon. E J Reyes: Okay, I am talking about –

Mr Speaker: Question 777.

1510 **Hon. C A Bruzon:** I know the one he is talking about, but for the benefit of –

1515 **Hon. E J Reyes:** Alright, yes, Question 777, as announced by the Clerk, in which I was going to ask the Minister to confirm that Government still intends, despite the representations indicating opposition to such projects by the relevant housing estates tenants, to proceed with the construction of additional homes by means of building floors at: (a) Moorish Castle; (b) Laguna; and (c) Glacis Estates? That is what I was referring to. I then clarified by saying I think all that has been answered. We now know it is not.

As a way of supplementary, if the Hon. Minister does know, when was this presented to DPC?

1520 **Hon. C A Bruzon:** It was presented to the Development and Planning Commission... I forget the exact date.

1525 **Chief Minister (Hon. F R Picardo):** Can I just clarify one point? That is a matter of public record. The DPC is public; it is online. All that information is a matter of public record. I know that the hon. Gentleman, wanting to be helpful, is going to provide the answer, but the DPC is now a public forum. (**A Member:** Hear, hear.) The time when things are submitted to the DPC is actually put on the website, so this is a totally public piece of information.

Mr Speaker: That is a valid answer; it is a matter of public record.

1530 **Hon. E J Reyes:** Alright, Mr Speaker, the reason why I ask that is because, from the Development and Planning Commission's meeting agenda on Wednesday, one of the items listed there was actually this project, and prior to that having taken place on Wednesday, there had already been an announcement from Government that they were not going to continue with this.

1535 Alright, Mr Speaker, I think that has been clarified, and when I look up at what is on public record, if I have any problems, I can always come back next month.

1540 **Construction of rental housing
Government intentions**

Clerk: Question 778, the Hon. E J Reyes.

1545 **Hon. E J Reyes:** Further to their announced plans to build additional floors at three existing rental housing estates, can the Minister for Housing commit himself and state what other rental housing Government intends to construct, indicating estimated commencement of construction and completion dates?

1550 **Clerk:** Answer, the Hon. the Minister for Housing and the Elderly.

Minister for Housing and the Elderly (Hon. C A Bruzon): Yes, Mr Speaker, the Government expects to have made announcements on this before the end of the year, and we have, in fact, already made an announcement of the drawings and planning for 450 eco houses for 50:50 purchase going to the Development and Planning Committee – that took place a few days ago – and also 70 flats for our senior citizens. That is also being considered by the Development and Planning Commission.

1555 **Hon. E J Reyes:** I am grateful for that, Mr Speaker, but in my Question I was saying what other rental housing is going to be constructed. I had taken note of previously announced projects that go for 50:50 purchase.

1560 **Hon. C A Bruzon:** The hon. Member is absolutely right, but I can also repeat the answer which will refer to rental housing, and that is that we expect to make an announcement on our plans to construct Government rental homes. The announcement will be made hopefully before the end of the year.

1565 **Hon. S M Figueras:** Mr Speaker, just by way of clarification, my recollection... the announcement in respect of the eco housing – we are referring to the ones in the Aerial Farm, is that correct? Yes. The announcement did not – (*Interjection*) Yes, it is public, yes I know. I am referring to a press release because that was public and I saw it.

1570 **Chief Minister (Hon. F R Picardo):** It is not just that though; there have been others as well.

Hon. S M Figueras: Yes, indeed, but the eco housing at the Aerial Farm is, I believe, what we are talking about here. That press release did not actually make reference to the fact of whether it was going to be for co-ownership or for rental, from what I can recall, so I take it that the decision to make it for co-ownership is something that has followed the issue of the press release?

1575 **Hon. Chief Minister:** No, Mr Speaker. The fact is that the press release talks about the project; it does not talk about the details of the project. That is what has been put into the public domain until now. It may be that there are different mixes available to the Government. The Government may decide that some of that may be available for rental, some of it may be for 50:50 purchase and some of it may be for 100% purchase.

1580 When the Government decides exactly what the composition will be – and it is very likely to be 50:50 – then there will be a press release that deals with that, but at the moment it has just gone for guidance to the DPC about heights and densities and the things which it goes to the DPC for.

1585 **Hon. S M Figueras:** I am grateful for the clarification. I only ask because it was spoken of very matter-of-factly a moment ago between the Minister and my hon. Friend that it was indeed for co-ownership, so it appears, it struck me, that there was some resolution in that respect. But I am grateful for the clarification in any event.

1590

Co-ownership housing estates Meetings with Government

1595

Clerk: Question 779, the Hon. E J Reyes.

Hon. E J Reyes: Can Government state if it has held meetings with any management companies/committees of co-ownership housing estates in order to address any new or ongoing concerns and, if so, provide details of the concerns raised and respective final outcomes?

1600

Clerk: Answer, the Hon. the Minister for Housing and the Elderly.

1605 **Minister for Housing and the Elderly (Hon. C A Bruzon):** Mr Speaker, as I have replied on various occasions when the hon. Member has asked a similar Question, no management company or committee have approached my office requesting a meeting.

I know, however, that a number of management companies and committees are in contact with the Chief Minister.

1610 **Hon. E J Reyes:** Therefore, because my Question this time, as opposed to previous occasions when I was asking just the Minister for Housing, I am asking, has Government held any meetings? Is there any Member on the Government side that can answer anything in that respect of my Question?

1615 **Chief Minister (Hon. F R Picardo):** Mr Speaker, yes, as the hon. Gentleman has indicated, I have held meetings.

Hon. J J Netto: Could I ask with whom, Mr Speaker?

1620 **Hon. Chief Minister:** With management companies and committees of co-ownership estates.

Hon. J J Netto: Which ones in particular?

1625 **Hon. Chief Minister:** A number of them, Mr Speaker. I do not know whether it is appropriate to list the ones that have come already and those that have not, but I have no difficulty saying that I have met with the management committees of Vineyards and of – (*Interjection*) Sorry? Of which? (*Interjection*) The management of Vineyards; the management committee of Brympton; I have had representations from the management committee of Elliot’s Battery; I am meeting, subject to diary arrangement, the committee of Montagu Gardens; I have met the committee of Sir William Jackson Grove.

1630 Mr Speaker, what I am not going to do is tell the hon. Members who was present, who I met, what I discussed with them; otherwise, I might as well just put a webcam in the meetings, Mr Speaker!

Hon. J J Netto: Certainly not, he can rest assured that we will not do that, but is there one meeting scheduled for the Harbour Views management committee?

1635 **Hon. Chief Minister:** Actually, thank you for reminding me. I have met them too.

Clerk: Question –

1640 **Mr Speaker:** The Hon. Edwin Reyes.

Hon. E J Reyes: My Question did end up saying, ‘if so, provide details of the concerns raised and respective final outcomes’. Is that something that the Chief Minister feels it is not appropriate to talk about?

1645 **Hon. Chief Minister:** I am not going to give that information, for a simple reason. The hon. Members are free to approach the management companies of the estates in Gibraltar and ask them what issues concern them and what issues they have brought to the attention of the Government, but I do not think it is appropriate for me to give that information in the House.

1650 If there is a resolution of something and the Government commits itself to do something in respect of a particular management company, then if the hon. Member asks me about what we have committed ourselves to do, we will of course be obliged to answer that question because it is a thing that we, as Ministers, are doing.

1655 In fact, I have also met the committee of Bayview, Cumberland Terraces and Nelson’s View, I have just remembered.

So I do not think it is appropriate to say, ‘What concerns have they raised with you?’ These are public individuals. You can go and ask them yourselves, the same as would be the case in respect of other interest groups, where the Opposition would be in dialogue with them as much as the Government.

1660 The Government – this Government – does not take the attitude that people who talk to the Government cannot talk to the Opposition. People can continue in dialogue with the Government and can talk to the Opposition, if they like. The position before 8th December, as the hon. Gentleman will know, was that people were told that if they wanted to continue to be in dialogue with the Government, they could not talk to the Opposition. That also ended with the new dawn of 9th December.

1665

**Housing Works Agency
Recruitment**

1670 **Clerk:** Question 780, the Hon. E J Reyes.

Hon. E J Reyes: Can the Minister for Housing explain why no new employees have been engaged by the Housing Works Agency in order to replace former employees who have retired/transferred, in keeping with the agreement between Government and Unite the Union?

1675 **Clerk:** Answer, the Hon. the Minister for Housing and the Elderly.

1680 **Minister for Housing and the Elderly (Hon. C A Bruzon):** Mr Speaker, staffing levels related to the Housing Works Agency are currently the subject of a comprehensive review of the Agency and the Ministry for Housing.

**Old St Bernard's hospital site
Elderly people's home**

1685 **Clerk:** Question 781, the Hon. J J Netto.

1690 **Hon. J J Netto:** Mr Speaker, can the Minister for Housing state why the new elderly people's home at the old St Bernard's Hospital site has not yet been opened, despite having said in Parliament that works would be complete in April of this year?

Clerk: Answer, the Hon. the Minister for Housing and the Elderly.

1695 **Minister for Housing and the Elderly (Hon. C A Bruzon):** Mr Speaker, Government was advised by GJBS that works would be complete in April this year and it is not uncommon for construction works to suffer some delays. In this case, the issues arising also relate to the need for changes to be made to certain parts of the site to make it accessible to elderly people with mobility issues.

1700 **Hon. J J Netto:** I presume, Mr Speaker, that those changes may have happened or occurred as a result of the new party coming into Government and altering the original plans – because the initial plans, when we were in Government, meant that the project *was* finished on 1st April. So my question is those new changes have arisen once the new party has been in Government – is that the case?

1705 **Hon. C A Bruzon:** I am not sure that I understand the question, but let me explain that technical completion is one thing. When technical completion happens, then a number of things also have to happen.

1710 My hon. Colleague, Samantha Sacramento and I have had site visits with our staff, we have visited the premises on more than one occasion and we have realised that certain adjustments have to be made, particularly to the ground floor, to make the apartments user-friendly for people with mobility disability. That may account – that *does* account, in fact – for the fact that we have not yet allocated any of these flats, but we are now in the process of identifying people whom we feel may wish to move from a larger Government flat into these rather beautiful 2RKBs.

1715 **Hon. J J Netto:** Does the Minister know by when will the building be finished and allocated?

Hon. C A Bruzon: We are precisely now currently involved in considering people for an allocation of these flats. It will be happening very, very soon.

1720 **Chief Minister (Hon. F R Picardo):** With this caveat, Mr Speaker: that there may have to be works done to general areas and therefore the allocations may have to wait. This is a really unfortunate turn of events that I am very disappointed in, which is that the plans that have been drawn up and on which a large amount of public money has been spent, render the place inaccessible for people with wheelchairs, and the expert advice that we have – because we do not tend to know about the space required for turning for wheelchairs etc – is that –

1725 **Miss S J Sacramento (Minister for Equality and Social Services):** And zimmer frames.

1730 **Hon. Chief Minister:** – and zimmer frames, not just wheelchairs – is that access areas for the building may also require work, in order that people with wheelchairs and zimmer frames etc can access the building. That may delay even the allocations in respect of people who do not have mobility problems, because the general areas may also require work.

To have spent public money, Mr Speaker, on such a project without taking these things into consideration is something that I think the hon. Members opposite should really have considered more carefully at the time.

1735

Hon. J J Netto: Mr Speaker, the Opposition does not agree with the Chief Minister, because the changes for the wheelchairs that he is referring to are perhaps because the specification that was originally intended has changed. In other words, when the GSD Government gave the specification to the contractors to provide that facility, it was meant as a facility for independent elderly people with no mobility problems. Therefore the construction was made on those specifications.

1740

The new Government is perfectly entitled to change the specification that the previous Government did – that is no problem – but the reality of the situation is that the work ended in December, the snagging had been taking place from December to April. The situation is that both the Minister for Social Services – so she does not get offended – and the Minister for Housing (*Interjection by Hon. Miss S J Sacramento*) have been at loggerheads because the Minister for Housing wanted the building to be finished to be able to allocate to elderly people who are independent living with no mobility problems, but the lady, the Minister for Social Services, has – rightly or wrongly; it is not for me to determine that – wished to change the specifications that were originally made by us.

1745

That is a different matter, they can do it, but what they cannot say is that the taxpayer has had to put a lot of money to put it right. It has not happened. The reality is that the works were done to what was intended, (*Interjections*) and what I am asking is whether the specifications, meaning that the building is now intended not only for independent elderly people, it may also be intended for people with mobility problems, which is a different thing, and that is my question.

1750

Hon. Chief Minister: Mr Speaker, the position is very clear. First of all, the hon. Gentleman is living in cloud-cuckoo-land and believing every rumour that he wishes to believe, if he believes that there are Ministers on this side of the House who are at loggerheads. I hear these rumours all the time and they are absolute and complete poppycock.

1755

This is a Government that *works together*. (**A Member:** Hear, hear.) This is a Government that meets every Monday at nine o'clock in the morning and makes decisions by consensus, and therefore there is nobody at loggerheads with anybody else here.

1760

Mr Speaker, this is not a question of changing specifications; this is a question of the *wrong* specifications having been given for the works to be done in the first place. (*Interjections and banging on desks*) Or is it that he does not know, Mr Speaker, that the doors fitted to this new development are not doors of the size required for people with mobility problems? They are not even standard-size doors for people with no mobility problems. They are *smaller* than standard-size doors, and therefore of course he is right that there has had to be a change of specification, because we have had to give the *right* specification!

1765

Or does he not know, Mr Speaker – or is he trying to forget – that when you develop housing for the elderly, the elderly may be mobile one day and less or immobile the next? There are many elderly people with mobility problems who will need to be rehoused very shortly and this part of the housing stock is going to be used for that purpose with the necessary modification, and some of the elderly people who are mobile today and are moved up there may not be mobile at all within months or years, unfortunately.

1770

Anyone who was prudently developing a facility like this one would have ensured that, from the word go, they would have made the necessary specifications, such that either people with mobility problems or people who are today enjoying independent living but tomorrow may have mobility problems might be able to avail themselves of the service of this development.

1775

That is the reality of the situation, Mr Speaker. He may not like it, and I know that it hurts, but he has to accept it. (*Banging on desks*)

1780

Hon. D A Feetham: Mr Speaker, I do not know about rumours. We hear a lot of rumours. We hear a lot of rumours of Ministers threatening to resign on the Government side, (**Hon. Chief Minister:** You wish!) (*Laughter*) if the Chief Minister does what his instincts tell him to do on the fishing dispute, which is enter into a reasonable agreement with the fishermen. (*Interjections*) There are rumours...

1785

Mr Speaker: Order! Order! Order!

Hon. Chief Minister: Mr Speaker, Point of Order.

1790

Mr Speaker: Point of order, yes.

Hon. Chief Minister: Mr Speaker, who is the hon. Gentleman to speak of what *my* instincts tell me to do? He can talk about what *his* instincts might tell him that *my* instincts might tell me to do, but he cannot talk about my instincts, because he has always got those wrong.

1795

Mr Speaker: Before the hon. Member continues, before he continues, I was about to remind him that under the Standing Orders, and certainly under the guidance of *Erskine May*, a Member asking a question must make himself responsible for the accuracy of the facts, so I would advise Members to steer away from rumours.

1800

Do carry on, please.

Hon. D A Feetham: Yes, of course, I apologise, Mr Speaker, –

1805

Mr Speaker: No, I was just guiding.

Hon. D A Feetham: – and I will not go into the rumour of resignations or of slanging matches at No 6 Convent Place between the Hon. the Chief Minister and the Minister for Employment.

1810

Mr Speaker: I think the Hon. Member is compounding it by repeating all that.

Hon. Chief Minister: Mr Speaker, he has raised something I am going to deal with.

Mr Speaker: Order! Order!

1815

Hon. Chief Minister: He has raised something I am going to deal with. He has, as usual, wanted to pretend not to say something but say it, so I am going to deal with exactly what he has said. I am going to put on record, because he has now elevated a stupid rumour to a stupid remark in the House, and I am going to deal with this in this way. (*Interjections*)

1820

Mr Speaker: Order! Order! Order!

1825

Hon. Chief Minister: I am going to deal with this in this way. He can talk and he has my freedom to talk to every single person in the corridor of power at No 6 Convent Place in Gibraltar. *Everyone* will tell him that that ridiculous rumour that he has elevated to a ridiculous remark across the floor of the House is not just wrong, it is manifestly untrue; that actually what is happening, which is so difficult for people to bear, is that the people on this side of the House are getting on perfectly, that we are working collectively in the interests of Gibraltar, and that in particular the relationship that I enjoy with the Minister for Employment is among the best that I enjoy with all the people who sit on this side of the House.

1830

They will also tell him that the slanging matches, the banging of doors, the shouting –

Hon. D A Feetham: Mr Speaker –

1835

Mr Speaker: Order!

Hon. Chief Minister: – they recall happened when he used to go in to see Mr Caruana, when Mr Netto used to go in to see Mr Caruana, and when Mr Montiel used to go in to see Mr Caruana, all of which I consider to be to their eternal credit because, of the others, I hear that there was only squeaking like mice, and that today, thank goodness, those days are *over*.

1840

Mr Speaker: The Hon. Daniel Feetham.

Hon. D A Feetham: May I now ask my questions?

1845

Mr Speaker: But not rumours, please.

Hon. D A Feetham: No, no rumours. I would not want to compound –

1850

Mr Speaker: Say no more.

Hon. D A Feetham: – the... yes... (*Laughter*) the Hon. the Chief Minister's state of emotion this afternoon.

1855 **Hon. Chief Minister:** I get very emotional when I am [*inaudible*] with my friends.

1860 **Hon. D A Feetham:** Absolutely. But does the Chief Minister not accept that there is a distinction, and I think that the hon. the shadow Minister for Social Services, Mr Netto, has been very clear and very fair in the way that he has, in his exposition of that distinction, that there is a distinction between elderly who are people who can live independently and therefore may require a facility that is obviously commensurate with that level of independent living, and elderly who cannot live independently because they may have mobility issues and that, as a matter of policy, this particular facility was not intended to cater for the latter, was intended to cater for the former.

1865 Does he accept that distinction? Because we certainly accept that the Government today is entitled – perfectly entitled – to change its policy and to say, ‘No, this is a facility that we would wish to cater for both independent living and mobility.’ We think there is a difficulty there, but look, you are perfectly entitled to take a different approach.

1870 And does the Chief Minister not accept that that does not mean – that it *does not* mean...? I think it demeans politics, if we then reduce everything to the level (*Interjection*) of ‘We are now in Government, this is all rubbish that you have done, it is all wrong and we are going to change it because it is all rubbish and it is all wrong.’ You may have a different policy. It does not mean that what we did was all rubbish and all wrong. (*Interjections*)

1875 **Hon. Chief Minister:** Mr Speaker, it demeans politics that people just want to get up and hear their own voices.

Hon. D A Feetham: Just like you.

1880 **Hon. Chief Minister:** It demeans politics, Mr Speaker, that people want to pretend that their opponents have said one thing, when actually they should be defending a different position, which is what has been put to them.

1885 Mr Speaker, it demeans politics for the hon. Gentleman to say that this facility they were developing up there *only* for people who had no mobility problems but who were elderly, because people listening to this debate are not stupid. Politicians demean politics when they say things that could only be believed by the stupid, and there are no members of this electorate that I know of who are stupid.

1885 Mr Speaker, if you develop a facility for the elderly who are today mobile, what do you do with that elderly person when they become less mobile or immobile?

Hon. J J Netto: I will answer that later.

1890 **Hon. Chief Minister:** It is very simple, Mr Speaker: you have to move them from the facility, or else the facility will become a useless prison for them, and in particular, given the location of this facility in the upper town, it would be even worse to have people who might develop mobility problems – and unfortunately the elderly often do – *very* often do... to have planned this facility without the simple measures necessary to also make it suitable for people who may be less mobile, either when they move in or in the future.

1895 Mr Speaker, the hon. Gentleman has to understand that he has to make such statements not in the vacuum and not in the reality that he wants people to believe that 8th December was, but in the *real* reality of 8th December, because, Mr Speaker, he knows what that was, I know what it was, and the members of the general public who are listening know what it was.

1900 That reality, Mr Speaker, was 1,500 people on the housing waiting list. That reality was, Mr Speaker, a lot of people who are elderly with mobility problems, either stuck in the hospital because their existing homes were not suitable for them or stuck in their homes because they could not get out of them because of their mobility problems.

1905 In those circumstances, Mr Speaker, to have planned this facility without the capacity of it taking people who have or may develop mobility problems is what we think was wrong and the hon. Gentleman makes a virtue of giving us the rights that we have. He said, ‘I accept, of course, that you are entitled to change the policy...’ *Of course* we are entitled to change the policy! We are the Government! We are entitled to take such policy as we believe, but we do not take that policy – saying, as I explained to his erstwhile leader at the beginning of Question Time this week – pretending that the world started on 9th December.

1910 I said when I accepted our election victory in the Mackintosh Hall, and I have said since, that the hon. Members did not do ‘nothing’ for 16 years, but that is what they want me to say because then they attack me by saying, ‘Well, you cannot say that. Your talking is not true. You are saying that everything we have done is rubbish and that is just not true.’ *I am not saying that*, Mr Speaker.

1915 What I am talking about are the things they *did not do*. The things they did which were wrong! They know they were wrong and they demonstrate that they know they were wrong by getting up to say, ‘You see, it is so unfair when you say that we did nothing and that everything we did was wrong...’ Of course, because that sounds so unreasonable. But that is not what we are saying. We are saying that *this* was wrong and on other occasions we say the *other things* that were wrong and this *was* wrong, Mr Speaker, for the reasons that I have already explained.

1920 Mr Speaker, we are convinced that the facility up at St Bernard’s needs the work that the Hon. the Minister for Social Services has already outlined and that the Hon. the Minister for Housing is aware of. There are some people who may be able to move in more quickly with that caveat that I have given about having to change certain rooms and having to change certain access areas, but it is going to be delayed, and it is delayed because of those failures.

1925 Mr Speaker, they may like it or they may not, but that is the reality of the situation and that is the view that this Government takes.

1930 **Hon. D A Feetham:** I have to say, Mr Speaker, that for somebody who says that I like the sound of my own voice, I should remind the Hon. the Chief Minister that he has taken 10 minutes with his response – 10 minutes giving us a political speech. (*Interjection*)

1935 He likes so much the sound of his own voice, that he did not actually hear Members of his own benches actually reiterate the point that I was making that this project, what we had done, it was all rubbish and all wrong. Those were the cries from the Opposition benches... sorry, from the Government benches (*Interjections*) from his own Ministers when I was making the point.

1940 Does the Chief Minister not accept that actually this particular site is not a good site for elderly who have mobility problems? It is in a very difficult part of town; hence, one of the reasons why we had allocated this particular facility for elderly people who were capable of independent living. Is he satisfied that this is an appropriate facility for elderly people who have mobility problems, up there in the upper town as it is located?

1945 **Hon. Chief Minister:** Mr Speaker, I know that the man has only been gone 24 hours, but to say that somebody is fond of the sound of their own voice because they take 10 minutes to answer a question – I doubt it was 10 minutes – is really to call into question what it is that the Hon. the Leader of the Opposition, when he was Chief Minister, was fond of, when he used to sometimes take 45 minutes to answer a question, or six hours to reply to a Budget speech!

1950 Anyway, Mr Speaker, given that there are so many people dancing on the hon. Member’s, the Leader of the Opposition’s grave, I will allow the Hon. Mr Feetham that further tango on it.

1955 Mr Speaker, what Members of the Government – we are not of the Opposition, remember – Government – were doing was reiterating the very point that I have made in colourful language – adopting his word of ‘rubbish’ – about this project. What he was talking about – and I know that they rather *Hansard* did not exist, but it does and it will be there for people who go back and look at this debate to see what he was talking about – was us saying that *everything* they had done was rubbish. This particular project, Mr Speaker, in that particular respect in our view is rubbish.

Hon. J J Netto: Answer the question.

Hon. Chief Minister: It is rubbish –

1960 **A Member:** Answer the question.

1965 **Hon. Chief Minister:** – as a facility for people who have mobility issues because all of the criteria which have to be taken into consideration for accessibility by people who have mobility problems for this particular facility are not met inside the facility.

1970 Am I satisfied that being up there in the upper town, this facility can be used by people with mobility difficulties? Yes, I am. Is that me just making up my mind about it? No. Experts tell us that it is possible for people with accessibility issues to use that facility. Different steps are being taken to make it easier for them to access the area and people with mobility issues are asking us, please, to make it available to them once adapted. There may be some who do not want to go up there and they will not be made to go up there, and those who do want to go up there will be able to go up there.

1975 Mr Speaker, they may not like the answer because it flies in the face of what they want to hear, but that is the truth. That is what is happening and that is why these works are going... or rather, why this project is going to have to be delayed and require more money to be spent on it.

Hon. J J Netto: Mr Speaker, it not a question that we do not like the answer, it just that –

- Mr Speaker:** Is it a question?
- 1980 **Hon. J J Netto:** It will come –
- Mr Speaker:** Soon I hope.
- Hon. Chief Minister:** It has got to be a question.
- 1985 **Mr Speaker:** It has to be a question.
- Hon. J J Netto:** Well, Mr Speaker, you know at least I will be allowed the latitude of an introduction
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- 1990 **Mr Speaker:** A brief introduction. Yes.
- Hon. J J Netto:** – to preface my question.
- 1995 **Mr Speaker:** *Erskine May* tells me it must be a *brief* preamble.
- Hon. D A Feetham:** Not 10 minutes.
- Mr Speaker:** No, that is not a preamble, that is an answer. (*Interjections and laughter*)
- 2000 **Hon. J J Netto:** I promise you that it will be a quarter of the time of the Chief Minister.
- Mr Speaker:** Okay.
- 2005 **Hon. J J Netto:** Mr Speaker, it is not a question that we do not like the answer; it just that the analysis that they have done is wrong. It is wrong because he knows that the location up there is not suitable for people with mobility problems and we took that decision on the basis that we created sufficient stock for other elderly people with different needs, by providing Bishop Canilla, Albert Risso House, ground floor flats in Government housing estates, lift installations throughout all Government estates, making Mount Alvernia full of capacity, which it was not before we came into Government, and this is one of the reasons why we did it.
- 2010 The reality is that... or the question is that they have changed the specification and we would like to know whether they have changed the specification and are now coming with the excuses on the basis of saying, ‘We need to change it because of mobility problems.’
- 2015 The original specifications were carried out. They were completed in December. The snagging took between December and April and now they have changed the specification. They are entitled to do it. They are the Government to do it, but they should not be shy from saying that they have done it.
- So could I get an answer saying, have they changed the specification from what was originally met?
- 2020 **Mr Speaker:** I think that has been answered, but if the Chief Minister wants to –
- Hon. Chief Minister:** I have answered that question so many times that I am afraid –
- Mr Speaker:** – answer it... It has been answered and changed –
- 2025 **Hon. Chief Minister:** – that I do not want bore listeners into listening to it again.
- Mr Speaker:** – and for reasons that I understand, both sides have a different approach to what the facility was for, really. I do not think we can take this debate much further.
- 2030 Next question.
- 2035

TRAFFIC, HEALTH & SAFETY AND TECHNICAL SERVICES

2040

**Street cleaning campaign
Removal of illegally parked cars**

Clerk: Question 782, the Hon. D J Bossino.

2045

Hon. D J Bossino: The Minister is now back.

Mr Speaker, I have got three questions on traffic related matters and I hope they will not descend into the performance that we have just witnessed. (*Interjections*) The Chief Minister is in an awful mood this afternoon, I must say. He is not here, okay? Good.

2050

Mr Speaker, can the Minister for Traffic, Health & Safety and Technical Services, provide the House with the full particulars of how it proposes to ensure that illegally parked cars will be removed in the context of its street cleaning campaign?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

2055

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, the street cleaning campaign is aimed at improving the cleanliness of various areas and the removal of vehicles on a regular basis is an essential element for its success. This will allow the cleaning operations to be carried out effectively.

2060

The process has started with the distribution of flyers in the areas forming part of the campaign. Following this, fixed penalty tickets will be introduced. The RGP will endeavour, by way of education and interaction with the community, to request that residents remove their own vehicles in a timely manner. However, should there be a need, offending vehicles will be towed away in the future.

2065

Hon. D J Bossino: In the context of ensuring that illegally parked cars are removed in the context of the street cleaning campaign, a reference was made in the Government's press statement as reported in the press – I have got an article here from the *Gibraltar Chronicle* – and the answer given by the Minister I think reads pretty much from that press statement.

2070

There are two items in particular which I would highlight in the context of my supplementary and that relates to, for example, information flyers and the fact that there will be manpower deployed in the form of RGP Officers and Highway Enforcement Officers. In that context, will the campaign result in further costs to the Government?

2075

Hon. P J Balban: Mr Speaker, I am not aware whether there will be any further costs with regard to what the hon. Member is asking.

2080

Hon. D J Bossino: Presumably, the answer really is that the Minister does not know, but there could be a cost. Is that a more accurate way of putting it?

I do not presume for one moment to be answering the question for the Minister, but I just propose that as an answer – given that I have been admonished by the Chief Minister in the first sitting of the House for proposing answers to Ministers – proposing as an answer, just by way of clarification.

2085

Hon. P J Balban: Mr Speaker, I do not anticipate any further costs. As I said, the information flyers have already been printed and been distributed; but again, as far as I am aware, there should not be any costs, but if there were, obviously I will let the hon. Member know.

Hon. D J Bossino: This question may an unfair question, but does he know how many information flyers are involved at all?

2090

Hon. P J Balban: No, it is right to say that this could be unfair. No, I do not know.

Hon. D J Bossino: Then I will ask the question at the next sitting.

2095

**New pelican crossing, Europa Road
Electrical equipment; date available for use**

Clerk: Question 783, the Hon. D J Bossino.

2100 **Hon. D J Bossino:** Further to Question 433/2012, can the Minister for Traffic, Health & Safety and Technical Services advise this House whether the electrical equipment for the placing of the new pelican crossing at Europa Road in the area of Brympton/Mount Road has arrived and when he expects that the crossing will be available?

2105 **Clerk:** Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, I am glad to report that the pelican crossing will shortly be installed at Europa Road in the area of Brympton/Mount Road.

2110 **Hon. D J Bossino:** By implication, the answer suggests that the equipment is available and ready for installation. Is that correct?

2115 **Hon. P J Balban:** That is right. As it implies in the question, the equipment is available and will be installed shortly.

Hon. D J Bossino: That, Mr Speaker, will be very welcome news for residents in that area, particularly in Brympton.

2120 The Minister refers to 'shortly'. We have also had this debate in the context of questions and answers in this House, I think in relation to the word 'soon', where the Chief Minister has referred us to the Oxford English Dictionary thereof. Is the Minister able at this stage to give me a more precise indication as to the timings?

In other words, where I do not necessarily have to raise this question at the next sitting of the House at the end of October?

2125 **Hon. P J Balban:** This is actually sooner than... (*Laughter*) sooner than when –

Hon. D J Bossino: Sooner than 'soon'.

2130 **Hon. P J Balban:** Yes, sooner than 'soon', when obviously the GSD was in Government!

King's Wharf site Car park

2135 **Clerk:** Question 784, the Hon. D J Bossino.

2140 **Hon. D J Bossino:** Can the Minister for Traffic, Health & Safety and Technical Services advise this House what the costs of the setting up of the car park opposite the fair was and what arrangements were arrived at with the owners of the site where the parking was provided?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

2145 **Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban):** Mr Speaker, the development of the car park at the King's Wharf site is part of an agreement with the developers of the site, at no cost to Her Majesty's Government of Gibraltar, to make the site available for use as a temporary public car park for a period of two to three years.

2150 In exchange, Her Majesty's Government of Gibraltar will agree an extension to the current lease the developer has for the site. Government has not yet finalised the actual terms of the agreement with the developers or received a final statement of the cost of producing the car park.

It is anticipated that the said arrangements should be finalised and the costs should be available in the next 30 to 60 days.

2155 **Hon. D J Bossino:** Mr Speaker, just by way of supplementary, the cost of the car park is a cost on the Government, is that correct? It is not a cost to be visited upon the developer – is that correct?

Chief Minister (Hon. F R Picardo): That continues to be a subject of discussion.

2160 **Hon. D J Bossino:** So just to understand the situation: the car park was provided now, because it is there in place, the whole area has been tarmacked and it is in use, and what is expected is that there will be an extension of the lease provided to the developer who currently owns the site. Is that correct?

Hon. Chief Minister: That is exactly what the answer given says.

2165

**Factories inspectors
Employment details**

2170

Clerk: Question 785, the Hon. J J Netto.

2175 **Hon. J J Netto:** Mr Speaker, can the Minister for Health and Safety give details of the total number of factories inspectors employed, the number of Health and Safety advisors or officers employed in various Government Departments, authorities and agencies, stating their grades, where they are employed, Health and Safety qualifications and whether any of them are currently undergoing any training or courses leading to a Health and Safety qualification?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

2180

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, the present complement of the Factories Inspectorate consists of four factories inspectors – that is one principal and three Health and Safety inspectors. At present, there are no officers undergoing training.

A list of grades and qualifications, as requested by the hon. Member, is contained in the schedule, which I now hand over to him.

2185

Answer to Questions 785

Department	Grade	Nos.	Qualifications
TSD	HPTO	1	NEBOSH Certificate (in Construction) NEBOSH DIP Parts 1 & 2 Occupational Health & Safety
Housing Works Agency	PTO	1	NEBOSH Certificate Occupational Health & Safety
Environmental Agency	SEHO	1	CIEH Approved
Factories Inspectorate	Factories Inspector	2	International Diploma in Risk & Safety Management
		1	Masters Degree in Health and Safety
		1	Post Graduate Certificate
CFB	Firefighter	1	MSC Occupational Health & Safety Management CMIOSH AIEMA
Customs	AO	1	NEBOSH (Health & Safety Practitioner) NEBOSH (Occupational Health & Safety)
Sports Authority	Deputy CEO	1	Certificate (Health & Safety in the Workplace)

2190 **Hon. J J Netto:** Mr Speaker, can I start by asking a supplementary question? Obviously, the difference between the different chart that he gave me some time back, in Question 181... because we have gone up by two. I think that the previous one was eight; now we have got 10, if we include the two extra factories inspectors. Is that correct?

2195 **Hon. P J Balban:** Yes, as explained to the hon. Member last time, because of the secondment of the two individuals from the Housing Works Agency, they have joined the Factories Inspectorate – that is why there are an extra two in that respect.

Hon. J J Netto: For the sake of clarity, Mr Speaker, I do recall, when I asked this question subsequently to Question 181, in relation that there were two people seconded to the Factories Inspectorate, I do recall – although I have not got *Hansard* with me right now – that the Hon. the Minister

2200 for Health & Safety did say that they would not form part, necessarily, of the Factories Inspectorate, only
if the vacancies went out and they applied for a job. So do I take it that those two new extra posts now, as
factories inspectors, have emanated as a result of vacancies and those two people who were seconded
applied, or have they simply been absorbed without the process of the vacancy coming out in the first
place?

2205

Hon. P J Balban: No, as I said earlier, they are still part of the Housing Works Agency. They were
seconded to the Department. (*Interjection by Hon. J J Netto*) No vacancy is available there for them; they
are just working, helping the Factories Inspectorate at the moment.

2210

Hon. J J Netto: So the situation remains the same, then – they are still seconded? That is the case, is
it?

Hon. P J Balban: That is correct.

2215

Clerk: Question –

Hon. J J Netto: Mr Speaker, can I –

2220

Mr Speaker: Yes, the Hon. Jaime Netto.

Hon. J J Netto: Thank you – you have got to be quick in here!

Mr Speaker: Yes!

2225

Hon. J J Netto: Mr Speaker, can I also ask if the Hon. the Minister for Health and Safety could at
least tell me what are the typical work activities of the Health and Safety advisers and officers, obviously
within the respective Departments, authorities and agencies that they are doing... In other words, what
are the ins and outs of everyday work that they are doing in order to support those Government authorities
and agencies as Health and Safety advisers or officers?

2230

Hon. P J Balban: Are you referring to the two seconded members of staff?

2235

Hon. J J Netto: No, for the sake of clarity, Mr Speaker, if we forget for one minute the... Let's say
the four factories inspectors, of whom two are seconded – let's forget about them. The rest, which he has
kindly provided to me, who are Health and Safety advisers or officers, like the one, for instance... You
have one in the Technical Services Department, you have one in the Housing Works Agency, one in the
Environmental Agency, there is one in the City Fire Brigade, there is one in Customs and there is one in
the Sports Authority. What I am trying to get a feel for, if the Hon. the Minister can provide, is what are
the typical work activities that they carry out in support of those Departments, authorities and agencies?

2240

Hon. P J Balban: Mr Speaker, the only person I am able to comment upon is the Health and Safety
officer we have within the Technical Services Department. You would actually have to ask the other
relevant Ministries to see what their Health and Safety advisers do in their relevant Departments.

2245

In my Ministry, in which is the Technical Services Department, the Health and Safety officer there is
actually responsible for looking after the wellbeing and the safety of the Sewers Division, so he will
actually go and check the procedure they are using before entering a sewer etc is adhered to, and just
guarantees the safety of the workforce in that respect.

2250

Hon. J J Netto: I can accept that, in the sense that what he is basically saying is that because of
people who work in confined spaces... In other words, the people who work in the sewers obviously
require a very high standard of Health and Safety – and I know that from experience myself, and that is
quite correct – but my supplementary question is much wider than that, in the sense that if you look – in
the UK, at least; it may be different in Gibraltar – that the work that typical Health and Safety officers or
advisers do, it has a wide range that they could do to ensure giving advice to that particular organisation
that they are complying with obviously legislation affecting the circumstances or the environment in
which they are working. They do audits and risk assessments on behalf of those Departments, but I do not
know whether that same pattern that they follow in the UK is necessarily the pattern they follow here.
This is why I am trying to seek a clarification from the Hon. the Minister for Health and Safety. Do they
follow the same pattern they follow in the UK, or is it a different one?

2260

2265 **Hon. P J Balban:** Mr Speaker, I presume that these individuals working in the other different Ministries will be responsible for, obviously, looking after the Health and Safety of the persons within their organisation. As I said, I have the responsibility for the member of staff in the Technical Services Department. I know exactly what that person is responsible for. I would presume, or I do know the fact that there are other individuals within the other Ministries... that Health and Safety is not their pure, full-time job. They are qualified in Health and Safety and I presume they will give advice to the relevant Departments, but that is not the entirety of what they do.

2270 **Hon. J J Netto:** Mr Speaker, I cannot remember now whether it was this morning or perhaps yesterday, when there was a Question from my hon. Friend, Isobel Ellul-Hammond to the Minister for Health, in relation to the audit being carried out by the factories inspectors on the kitchen. Basically, the Minister said it is not the only audit that is being carried out by the factories inspectors; there are other audits. Obviously, he has not got, in the GHA, a Health and Safety officer or... what is the other word now I am looking for? – *bueno*, a Health and Safety officer to be able to conduct that, but the equivalent in the UK would mean that their own in-house Health and Safety officer would have been able to do that.

2275 Presumably, your own Health and Safety officer in the Technical Department, over and above what you have just cited, in terms of supporting the people working in the sewers, because of confined spaces, will also be able to help the Department as a whole in relation to complying with a whole series of different things, from lighting to chairs to risk assessments and records in support of the senior management or the Chief Executive of the Technical Department.

2280 Given I do not know the answer to my question, I am asking the question to you, as the Minister. In other words, having said all of that, do those officers in those Departments follow the same pattern as the UK, or a different one?

2285 **Hon. P J Balban:** Mr Speaker, referring back to, obviously, what the hon. Gentleman was saying about the Technical Services Department Health and Safety officer, he is predominantly involved in the sewers section. There is enough work in the sewers section for him, so he would not be engaged in giving advice to the GHA, as a matter of course for that matter. So, that falls under the remit of the Health and Safety Inspectorate, who will conduct audits if need be.

2290 As to whether the other people, who are not in my Department, follow the same guidelines as in the UK, I would presume so. As I said, they do not fall under my Ministry, so I can only advise the hon. Gentleman what Technical Services does in respect of Health and Safety.

2295 **Hon. J J Netto:** I think, Mr Speaker, all I will do is, next month, I will ask another Question to all the respective Ministers, to see what they do.

2300 **Factories Inspectorate
Improvement notices and prohibition notices issued**

Clerk: Question 786, the Hon. J J Netto.

2305 **Hon. J J Netto:** Mr Speaker, can the Minister for Health and Safety state the reasons for the factories inspectors issuing five improvement notices and one prohibition notice in the month of August 2012 and provide the names of the company or companies, if it is more than one, obviously?

Clerk: Answer, the Hon. Minister for Traffic, Health & Safety and Technical Services.

2310 **Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban):** Mr Speaker, a total of 12 improvement notices and one prohibition notice were issued during the month of August 2012.

2315 However, if the hon. Member is referring to the five improvement notices and one prohibition notice issued to the construction industry, I can then confirm that these were issued for breaches of the Factories (Work at Heights) Regulations.

Hon. J J Netto: Mr Speaker, can the Hon. Minister provide some more detail, not just as to the legislation, but on what actually triggered the factories inspectors to see that something was particularly wrong to issue at least one prohibition notice and five improvement notices?

2320 **Hon. P J Balban:** As I mentioned previously, there were actually *twelve* prohibition notices, not five, so exactly which of the five are you referring to? I can only assume that what you meant was construction, but again, the question was not clear enough.

2325 If the five that I am assuming are the ones that were grouped together statistically, then all the notices were issued to scaffolding companies, and they were all to do with the Factories Act (Work at Heights) Regulations.

Hon. J J Netto: And the names of the companies, Mr Speaker?

2330 **Hon. P J Balban:** Mr Speaker, I do not think it is appropriate to actually give the names of the companies, but if the hon. Gentleman likes, I can give them to him in private – and confidentially, obviously.

2335 **Hon. J J Netto:** Mr Speaker, whatever way I get the information, it is of benefit to me, undoubtedly, but I do not see the logic of why it has to be confidential, because from the point of view I am looking at this, these are companies which, to some degree or other, from the point of view of the factories inspectors, have been determined that they were doing certain activities which were not right and, as a result of not being right, they issued a prohibition notice and five improvement notices. So I do not see why there is a reason why we should not know the company. Is there any particular reason?

2340 **Hon. P J Balban:** Mr Speaker, as the hon. Gentleman is aware, these are simply improvement notices and they could be to do with minor issues, minor things. Obviously, I do not think it is appropriate to name and shame companies who may have just done something very minor, and yet the overall impression could be that they did something which was serious.

2345 **Mr Speaker:** I think I should just remind Members, we all enjoy parliamentary privilege here and we should always be very careful in naming individuals or entities, because even though prohibition notices have been issued, they could be erroneously issued and the party concerned has the right of recourse in terms of challenging those notices. So we must be careful when we start bandying names of persons and entities in this House.

2350 **Hon. J J Netto:** Okay, fair enough, Mr Speaker.

Mr Speaker: No, just as a general principle.

2355 **Hon. J J Netto:** Alright, I accept that and I also accept what the Minister suggested, that he can give it to me confidentially.

2360 **Health and Safety
Industrial accidents**

Clerk: Question 787, the Hon. J J Netto.

2365 **Hon. J J Netto:** Mr Speaker, can the Minister for Health and Safety state if there have been any reported accidents during the months of July and August 2012, showing the industry group and the name of the company, and state which ones were reportable, major and fatal, if any?

2370 **Clerk:** Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, I will answer this Question together with Questions 788 to 790.

2375 **Factories inspectors
Site meetings**

2380 **Clerk:** Question 788.

Hon. J J Netto: Mr Speaker, can the Minister for Health and Safety state how many site meetings were attended and advice given by the factories inspectors during the months of July and August 2012, stating the names of the companies or public sector organisations?

2385

**Factories inspectors
Inspections**

Clerk: Question 789.

2390

Hon. J J Netto: Mr Speaker, can the Minister for Health and Safety state how many inspections during the months of July and August 2012 did the factories inspectors carry out, stating the names of the companies or public sector organisations inspected, whether any possible breach of the Factories Act or any subsidiary legislation has taken place, and whether legal advice is being sought?

2395

**Health and Safety Inspectorate
Inspections, site meetings and advice given**

2400

Clerk: Question 790.

Hon. J J Netto: Mr Speaker, can the Minister for Health and Safety now provide me with the breakdown of figures for the months of May and June 2012 in relation to inspections/site meetings/advice, which he so kindly promised me in reply to Question 555/2012 but has not yet done?

2405

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

2410

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, in answer to Questions 787, 788 and 790, the information requested by the hon. Member is available online on the Government's website.

In answer to Question 789, the information requested by the hon. Member is available on the Government website.

In relation to legal advice, no legal advice has been sought.

2415

Hon. J J Netto: Mr Speaker, but unfortunately it does not answer my Questions, because what the Government website provides for is to put together different categories of... *o sea*, put together my individual respective Questions into a big group, from which I cannot then identify which one falls within inspection, which is a specific Question, or how many fall within what is basically site meetings or advice. So the manner in which the Government is providing information on the website does not correspond to the nature of my Question, which is very specific in kind.

2420

What I am saying is that in the past, when I have brought these to matters to the Minister, he kindly said to me, 'Yes, you have got a point, it is valid, and I will provide information.' Now he seems to be saying to me, 'Forget what I said to you in the past, which is that I will provide the information in the manner that you have asked the Question, and you can go and look at the Government website, which still continues not to provide me with the answer in the manner in which I have asked for it.' So, which of the two is it, Mr Speaker?

2425

2430

Hon. P J Balban: Mr Speaker, the statistical information, the actual information the hon. Member is requesting, as I said, has been provided monthly from the start, instead of statistically, and this information is actually on the Government website.

If there is anything in particular that the hon. Member wants to elaborate upon, please ask by supplementary and I am happy to give you more information when available.

2435

Hon. J J Netto: It is not a question of asking supplementaries; it is a question that I have given notice of a specific Question and the Questions are not being answered.

2440

He may choose to say, 'Look, regardless of what you ask, I am not going to give you the answer,' and that is fine if he does not want to give me the answer; but given that in the past, in answer to Question 555, he already said he recognised that he is not providing me with the answer and that he is going to provide me with it, he is now regurgitating the fact that he is not going to provide me with the answer, regardless of having told me he is going to give me the answer.

2445

Which one is it? Is he able to provide me with an answer from which I can draw a natural conclusion to my Question, which is: how many inspections in this month and how many site meetings in this month? But if you put together a graph which shows all the figures together and I cannot know which ones of those total figures are inspections or site meetings, then he is not providing the answer. He can continue to do that for as long as he wants to, but at least *tell* me that he is not going to provide me with the answer!

Hon. P J Balban: Mr Speaker, I think I get exactly what you are leading to. (*Interjection*) If I can have his attention for a minute?

2450 What you are saying is that the way the statistics are actually laid out at the moment, in groups, three things together... And this is what we have spoken about before, in the past. Unfortunately, because we do not have the software available to be able to separate these things, it just will not be possible to do so.

2455 The software, as I have mentioned in past sessions of Parliament, is very close to being ready for use, and once that is available, we will be able to provide the hon. Gentleman, I hope, with the relevant information that he requires.

Hon. J J Netto: Mr Speaker, the hon. Gentleman or his Department do not need any software at all to extract the information I am asking for. All he needs is someone to create a spreadsheet, so that when a factories inspector goes out and he records in his logbook saying, 'Today, Friday, at five o'clock in the afternoon, I went to inspect such and such a place,' that information will be put onto the spreadsheet, and given that the number of inspections we are talking about is either 50, 35, 40 – the highest is 46 – it takes five minutes within a spreadsheet to provide the information. He *does not need* a software programme!

2460 This is not about sending a rocket to Mars; this is about simple inspections! I am almost illiterate in IT – I confess that to be the case – but most people, fortunately, have a good understanding of what computers are and what a spreadsheet is, and I would have thought that it does not take a scientist to be able to get this information in the manner I am asking, which he recognised some months ago and now he is saying that he does not.

Hon. P J Balban: Mr Speaker, I do recognise what the gentleman is saying. The gentleman is saying that inspection site meetings and advice are grouped together on a spreadsheet. (**Hon. J J Netto:** I am?) Yes, and unfortunately, this is what these guys have been doing for years. This is how they used to provide the statistics in the past. As I said, this will change.

Hon. J J Netto: No. No, Mr Speaker!

2475 **Mr Speaker:** Order! Order! Give way, the Minister is answering.

Hon. J J Netto: No, that is not true!

2480 **Mr Speaker:** Order! The Hon. Minister is answering.

Hon. P J Balban: That is about it. This is the way... I have not told them this is the way to do it. This is the way that they set up their spreadsheets and this is the way they keep the information statistically.

2485 When I have actually quizzed them and said, 'Why do we do it this way?', they say, 'Because it is not possible for us to do it any other way.' So I am obviously not going to tell them, 'This is the way it should be done because the hon. Member has requested it in that fashion,' but I am assured that once we have the computer software in place and installed, this will be possible to split up into the relevant categories that the hon. Gentleman is requesting.

2490 **Hon. J J Netto:** No, Mr Speaker, it is *not* true to say that this is the way that it has always been done. All he has to do is check the annual report that was done throughout the four years in which I was the Health and Safety Minister and he will see that inspection is in one column and it has nothing to do with site meetings or advice. So it is *not* true what he has just said.

2495 The second thing... regardless of the system that was there in place, right, all I am saying is you do not need a software programme. All you need is a spreadsheet. Pass the information from the logbook onto the spreadsheet, and given the small size of numbers or inspections, it does not take two minutes to get the answer out!

Mr Speaker, a student in Bayside learning to do IT would be able to do it!

2500 **Mr Speaker:** But there was not a question there, so we must move to the next Question.

Hon. J J Netto: Mr Speaker, please –

2505 **Mr Speaker:** No, there was no question there. With respect, I allowed the hon. Member to have his say, but there was no question there. We really must move on to the next Question.

2510

**Factories inspectors
Increase in numbers employed**

Clerk: Question 791, the Hon. J J Netto.

2515

Hon. J J Netto: Mr Speaker, is the Minister for Health and Safety now in a position to state how many more factory inspectors will be employed during this financial year, in order to carry out the Health and Safety audit that the Minister alluded to in answer to Question 440/2012?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

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Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, as I already informed the hon. Member in answer to Question 440/2012, the Senior Factories Inspector has been tasked to look at proposals for review, which will then be put forward for ministerial consideration. This process has not yet been finalised, so I am still not in a position at this stage to state how many more factories inspectors will be employed, if any at all.

2525

Hon. J J Netto: Mr Speaker, this Question was prompted by the fact that the Minister, in the previous Question, was saying that they were conducting a review. I think he said at the time that the review had been initiated by the Senior Factories Inspector – I think those were his words – and that the review had started almost at the time when they got into Government, which is an obvious thing to say.

2530

So, given that they have been now almost nine months in Government, does he know at what stage the review is? In other words, whether the review is likely to finish shortly, in the next month or two?

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Hon. P J Balban: Mr Speaker, I am actually waiting for the Factories Inspector to produce and submit a report regarding the outcome of the review.

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Hon. J J Netto: So do I take it then that they started to do the review in December 2011, we are in September 2012, and the review is still ongoing?

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Hon. P J Balban: Mr Speaker, I do not recall having said the review as such started in December. The Department was being reviewed generally, so this is why we decided to get help from the two supplementary officers of the Housing Works Agency. So the review, as such, has been ongoing – that is review of the Department – but the actual review that I am talking about was a review which the Senior Factories Inspector, the Principal Factories Inspector, has been tasked to do recently and – (**Hon. J J Netto: Recently?**) Yes, recently. Not weeks ago, but recently. It was not December.

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Hon. J J Netto: Mr Speaker, that does not tally with the information that he gave in the previous Question, in Question 440, which was in May, so it obviously cannot be recently, because he was alluding there to the fact that there was a review and the fact that one of the reasons for the review is that they will be able to do this audit. So is this wrong, *Hansard* is wrong, and what you are saying now is right?

2555

Hon. P J Balban: When I referred to 'recently', I meant more recently than December 2011.

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Hon. J J Netto: Right, okay, alright, so at least we know now that it started in May. At least we know that, which is in *Hansard*. Given it was in May, can the Hon. Minister at least provide me with an indication of when the review is likely to finish?

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Hon. P J Balban: Not at this present time.

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**Prohibition and improvement notices
Number issued**

2575

Clerk: Question 792, the Hon. J J Netto.

Hon. J J Netto: Mr Speaker, can the Minister for Health and Safety state how many prohibition and improvement notices were issued in the months of July and August 2012, specifying the names of the companies involved, the site(s), the reason(s) for issuing the notice(s), and the period which may have

2570 brought operations to a halt until the inspector was satisfied that the correct standard had been duly complied with?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

2575 **Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban):** Mr Speaker, one prohibition notice was issued in July and one in August. On both occasions, these were issued to construction companies for breaches under the Factories (Work at Heights) Regulations. The work areas at the site in question had *not* been provided with a collective means of fall protection.

It took two working days to remedy the contraventions.

2580 Five improvement notices were issued in July 2012, and 12 in August 2012. All notices issued were for contraventions to the Factories Act (Lifting Operations and Lifting Equipment) Regulations and (Work at Heights) Regulations.

No further action was required in respect of any of these notices.

2585 **Hon. J J Netto:** Mr Speaker, just one supplementary. Do I take it then that the Hon. Minister will give me, on a confidential basis, the names of the companies, as he stated before?

2590 **Hon. P J Balban:** Obviously, one of the other ones I included in the answer I already gave, but if the hon. Gentleman insists on having the names of the companies, as long as it is given to him on the understanding that this is obviously on a confidential basis, I am happy to provide these to the hon. Gentleman.

2595 **Health and Safety statistics
Government website/Hansard discrepancies**

Clerk: Question 793, the Hon. J J Netto.

2600 **Hon. J J Netto:** Mr Speaker, can the Minister for Health and Safety provide an explanation as to why the figures recorded in *Hansard* for the month of February 2012 in relation to the number of inspections/site meetings/advice vary with the figures on the Government website for the same month as updated on 1st September 2012, or indeed with other subsequent figures recorded in *Hansard*?

2605 **Clerk:** Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, the Factories Inspectorate has been experiencing technical difficulties in transposing data with their present IT software, which seems to be the cause of the problem.

2610 The Department is in the process of acquiring a new computer software programme that will eventually solve the problem. Needless to say, any discrepancies will now be checked and corrected.

2615 **Hon. J J Netto:** Mr Speaker, everything seems to fall on this wonderful software programme that is going to come from Houston, apparently.

But look, Mr Speaker, in Question 308, when I asked how many inspections during February did the Factories Inspectorate conduct – and at that time he did provide the answer in the right form – he did say two. Then, in Question 311, when I asked about site meetings and advice, which he then used to provide the correct answer, he said, in the little chart which follows, six. Well, six and two is eight. If you look at the Government website, it is 35.

2620 Ministers are responsible for what they say in Parliament, and of course sometimes they may get the information wrong – it happens to everyone; it happened to me – but we have a duty to come to Parliament at the first possible opportunity and correct the figures.

2625 Given that this is the figure he gave in March for February for inspections on one side and for site meetings and advice on the other, and given that they have been producing an alternative figure on the Government website, surely the Minister should have known this and should have stood up in Parliament to correct the figure, for whatever administrative reason that perhaps the figure was wrong, as opposed to having to rely, from the Opposition bench, to look at the figures, find that the figures are incorrect and then ask for explanation and then have an answer which is all to do again with this wonderful software programme which is going to solve everything.

2630 Does he take responsibility for the figures he produces in Parliament?

Hon. P J Balban: Of course I take responsibility for the figures I produce in Parliament. It was not until the hon. Member raised it that I actually asked my officials and then they came up with the reply to the Question.

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Unfortunately, that magnificent piece of software was one that should have been in place when we came in in December. If that had been in place – or so I am told – then we would not have had to have these difficulties that we experience at the moment.

2640

We have tried with different software, and unfortunately they have not been able to get an adequate programme. I am told that we are almost there, so this is a question of just being a bit more patient and hopefully we will be able to get the figures as you so request, but the key issue is that unfortunately we are still working as we were in the past.

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Hon. J J Netto: This has got nothing whatsoever to do with the software programme. This is about a Minister who gets, month after month, Questions in the same format but asked in different months, and all he needs to have is a file in front of him, knowing what the figure was that he gave the month before to the Opposition Member and ensuring that he does his diligent work to ensure that the figures on the Government website are correct. Nothing to do with a Government software programme; it is all to do with being prepared for answering a Question and making sure that, as Minister for Health and Safety, the figures that go on the Government website and the statistics for Health and Safety match with the figures that he produces here in Parliament. *Nothing* to do with a software programme.

2650

So the question is does he take responsibility, and which figure is right – the figure he gave in Parliament, which is eight, or is it 35, because we need either to change *Hansard* or we need to change the Government website figure. So which one of the two is it?

2655

Hon. P J Balban: The answer to the first Question, I have already answered the hon. Gentleman. The source of these figures... they both come from the same source, so I would assume that, as the months go by, the figures – (*Interjection by Hon. J J Netto*) Pardon? (*Interjection by Hon. J J Netto*) Pardon?

2660

Mr Speaker: The Hon. Minister is advised not to engage in conversation, just proceed with his answer.

2665

Hon. P J Balban: I do not know what he was saying. I said the source of these figures is the same, so as months go by, presumably the webpage would be updated, so what is the hon. Gentleman asking me to do – every single month to get the figures from the Department and check on the website and check that they tally? I would assume this is what our Health and Safety officers are there to do, and when I request figures, I expect the figures that come are the correct ones, which then I come to Parliament and give to the hon. Gentleman.

2670

In reply to the answer, when I asked and quizzed my members of staff as to why these figures did not tally, the reply that I received was that they had been experiencing technical difficulties in transposing this data with their present IT software, which seems to be the cause of the problem, and then they go on to say that any discrepancies would now be checked and corrected. This is the reply from my officials.

So I would presume and I will make sure that these gentlemen down at Health and Safety check and correct these discrepancies, if so that they are.

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Hon. J J Netto: Just one final supplementary, Mr Speaker. I will not go much further than this.

At the end of the day, whether a satisfactory answer is given as to whether the original figure, the eight, is correct, or the 35 which is on the Government website, one is right and one is wrong – or is it a different figure altogether, not necessarily the eight or the 35?

2680

But the Minister would have a responsibility to correct whatever figure is wrong to ensure that, in the *Hansard* record, we have the right figure. So does he give that undertaking that when he gets a satisfactory answer from his staff, he will either correct *Hansard*, if *Hansard* is wrong, or he will correct the Government website?

2685

Hon. P J Balban: Mr Speaker, logically that is the intention. I will only want the correct figures to be there, both in *Hansard* and on the webpage, so that will be looked into.

One thing which I will ask the hon. Member to do, to avoid in the future comments about things I was meant to hand or I promised the gentleman... if in future everything the gentleman wants comes to me in writing, then at least I will not forget, because there could be a genuine case where you ask me for things in Parliament and I say yes, and then I could genuinely...

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So anything you request from me, please put it in writing and I will ensure that you get the reply you request.

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Gibdock
Health and safety inspections

Clerk: Question 794, the Hon. J J Netto.

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Hon. J J Netto: Mr Speaker, can the Minister for Health & Safety state on how many occasions have the factory inspectors inspected Gibdock facilities during 2012, broken down by months, and whether any contravention to the Factories Act or any of its subsidiary legislation has been identified?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

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Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, the Gibdock facilities were inspected on two occasions, once in May and once in June 2012. No contraventions to the Factories Act or any of its subsidiary legislation were identified.

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Hon. J J Netto: Mr Speaker, does the Minister for Health and Safety... perhaps he is aware whether Gibdock does have for itself a Health and Safety adviser officer. The reason why I am asking this is because in the past, when we have discussed the industry groups where it is likely to have a higher incidence of accidents, we have always said and acknowledged that it is the construction industry, but we have also said that, once you remove the construction industry, it is the ship-repairing facilities, not just in Gibraltar but perhaps indeed in Britain and throughout Europe. Given that the nature of the work tends to provide a higher incidence of accidents, obviously we need to ensure that at least the best practice is made available.

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Perhaps he may even need notice of the question, but is he aware perhaps whether the Gibdock facilities within his own management team have a Health and Safety adviser officer?

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Hon. P J Balban: Mr Speaker, there is an element of *déjà vu* with all these questions. We seem to be repeating ourselves with the same questions month in, month out.

As the hon. Member obviously is aware, I am not responsible for Gibdock. In fact, as you rightly say, Gibdock has its own Health and Safety advisers within Gibdock, who are responsible for what goes on within their four walls.

2725

The only reason why a Health and Safety inspector from my Department would go into Gibdock would be following a complaint or request from someone externally, and that is when they would go in.

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Ministry of Defence sites
Health and Safety inspections

Clerk: Question 795, the Hon. J J Netto.

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Mr Speaker: I have not got a 795 in my bundle. Is there a 795? Thank you.

Hon. J J Netto: Mr Speaker, can the Minister for Health and Safety state if any inspections have been carried-out by the factory inspectors to MOD sites during 2012, broken down by months; and, if so, have the factory inspectors detected any contravention of the Factories Act or any of its subsidiary legislation?

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Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, no inspections have been carried out by the factory inspectors to MOD sites during 2012.

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Hon. J J Netto: Is there a reason for this, Mr Speaker?

Hon. P J Balban: MOD works notified to the Inspectorate are not that many. So, going back to the previous Question, nobody actually complains about what goes on within the MOD.

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With the previous complement of two inspectors, as was the case under the previous administration, the Inspectorate could only be reactive as to the demands of the day-to-day tasks, which were ample and varied. It is now the intention of the Inspectorate to schedule works to cater for a wider scope, as we may now respond more efficiently due to the temporary increased resources.

2755

So, as part of the general inspection process, we do intend, in future, to be able to go and check the MOD, but it has not been happening during 2012 so far.

2760 **Hon. J J Netto:** Mr Speaker, does the Hon. Minister not recognise that the MOD is a substantial employer in Gibraltar, not only in terms of the amount of people it employs, but in terms also of the different functions and the different work environments that they have for different purposes? To have a situation, even with two factory inspectors, where for nine months of 2012, there appears not to have been at least one inspection perhaps is something that should have been looked into itself and perhaps should be given greater prominence, so to speak.

But I hear that the Hon. Minister is also saying that now they have the two extra seconded factory inspectors, this will be the case. Did he say that they intend to do so?

2765 **Hon. P J Balban:** Mr Speaker, once we find out what is going to happen – whether we are going to stay with... I said the two members of staff who came from the Housing and Works Agency and the Enterprise Support... If, as a result of the review, it is decided that we will keep those two members of staff, then we will have extra resources to be able to carry out inspections to a wider range of areas within Gibraltar.

2770 Coming back to the previous comment of the Member, it would be very interesting to actually know or find out – and I will try to find out – how many times our Health and Safety inspectors checked MOD with their limited resources... because now, remember, effectively we have four persons working within the Department. Prior to December 2012, we had two, so if they are complaining of lack of resources... Apparently, they say it has been historical. Obviously, I will now find out to see how many times the MOD as established was inspected in 2011, 2010, 2009 etc, because obviously now I am quite keen on learning whether this is so alien that we have not had any inspections to date.

2780 **Hon. J J Netto:** Mr Speaker, I can help him in that exercise. What I can tell him is that, in the four years I was the Minister for Health and Safety, we did take it quite seriously that the MOD is an established employer in Gibraltar and the jurisdiction of the Factories Act allows for the factory inspectors to actually go and check it. In fact, in those particular four years, they did actually go and check the MOD, because I remember there were some issues of concern.

2785 What happened subsequently, I do not know because I did not continue to be the Minister for Health and Safety, but the point I am making is, regardless of trying to find out what happened last year or the year before or the year before, does the Minister not recognise what I said before, which is that the MOD is a big employer, has a number of different functions, which one would assume that, at the very least, a number of inspections should take place during the course of a year, given the type of work that they undertake year in, year out? That is my question.

2790 **Hon. P J Balban:** Obviously, we recognise that the MOD is a big employer, just as the Government of Gibraltar is, etc. Obviously, what I am keen to know is... I am not aware, when you were the Minister for Health and Safety, whether it was just prior to the election or... I presume it was a lot earlier than that. I do not know whether you had the privilege of having that computer software and whether that computer software was ended when you left.

2795 **Hon. J J Netto:** It was bought in my time.

2800 **Hon. P J Balban:** Exactly, and in fact, so I am told – and I will check for the hon. Member, if possible – apparently, these annual reports that you mention were prepared during your time, apparently these ceased after then and it was the result of the lack of computer software. So you must have had the magical years and things must have been very good for you then! (*Interjection by Hon. J J Netto*) But I can assure you that after that the Department took a dive and, unfortunately, this is where we stand today.

2805 So it is now my responsibility to bring back this Department to more glorious magical years than the ones you experienced.

**Health and Safety inspections
Government Departments, authorities and agencies**

2810 **Clerk:** Question 796, the Hon. J J Netto.

2815 **Hon. J J Netto:** Mr Speaker, can the Minister for Health and Safety state on how many occasions the factory inspectors have inspected any Government Departments, authorities or agencies during January 2012 to date, broken down by months, and whether any contravention of the Factories Act or any of its subsidiary legislation has occurred on any of the sites?

Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

2820 **Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban):** Mr Speaker, inspections have been carried out on four occasions since January 2012 to date as follows: in April 2012, the Electricity Authority and the Elderly Care Agency; in May 2012, the Sports Authority; and in June 2012, the Gibraltar Health Authority.

2825 Improvement notices were issued in all four cases for contraventions to the Factories Act (Lifting Equipment) Regulations and the Factories Act (Work at Heights) Regulations.

No further action was required.

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**Health and Safety seminar
Details**

Clerk: Question 797, the Hon. J J Netto.

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Hon. J J Netto: Mr Speaker, can the Minister for Health and Safety state if he has planned any Health and Safety seminar or conference for this year; and, if so, could he provide details of such and the location where it is to be held?

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Clerk: Answer, the Hon. the Minister for Traffic, Health & Safety and Technical Services.

Minister for Traffic, Health & Safety and Technical Services (Hon. P J Balban): Mr Speaker, yes, Her Majesty's Government of Gibraltar, in association with IOSH Gibraltar Association Branch, will be holding a seminar on Occupational Safety and Health. This will be held at the John Mackintosh Hall on 23rd October 2012. A programme detailing the event will be made public shortly.

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Hon. J J Netto: Mr Speaker, could perhaps the Hon. the Minister expand on the issues or the topics that will be developed in the course of the seminar?

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Hon. P J Balban: Mr Speaker, as I said in the last sentence, a detailed programme of events will be made public shortly, as soon as I am made aware of it.

Hon. J J Netto: Mr Speaker, I am not asking for the detailed programme; all I am asking for is a couple of the big issues that will be in the seminar.

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I am sure that if the hon. Member is going to go – which is the norm – and give a speech, he will know by now, at least before he writes his speech, what the issues are going to be. I am not asking for a detailed account now of everything that is going to transpire, but I am sure he must have some idea of those issues.

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Hon. P J Balban: Mr Speaker, I can assure the hon. Gentleman that I do not require four weeks to write a speech, but as far the gentleman needs to know, the key issues of the seminar will be Health and Safety.

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Hon. J J Netto: Mr Speaker, thank goodness it is going to be Health and Safety and not something else!

Chief Minister (Hon. F R Picardo): You asked for a couple of issues.

Hon. P J Balban: Those are the two issues, Health and Safety –

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Hon. J J Netto: That was a very enlightening answer!

Hon. P J Balban: – and I presume that I will be seeing you there as well.

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Hon. J J Netto: Mr Speaker, I am very grateful for that very enlightened answer.

Clerk: With that, we come to the end of Answers to Oral Questions.

2880

Questions for Written Answer

Clerk: Answers to Written Questions, the Hon. the Chief Minister.

2885

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to table the answers to Written Questions numbered W104/2012 and W142/2012.

2890

Procedural

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that this House do now adjourn until Friday, 28th September, at 2.30 p.m.

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Mr Speaker: I now propose the question, which is that this House do now adjourn to Friday, 28th September 2012 at 2.30 p.m.

I now put the question, which is that this House do now adjourn to Friday, 28th September 2012 at 2.30 p.m. Those in favour. (**Members:** Aye.) Those against. Passed.

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This House will now adjourn to Friday, 28th September 2012 at 2.30 p.m.

The House adjourned at 6.00 p.m.



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 2.30 p.m. – 7.45 p.m.

Gibraltar, Friday, 28th September 2012

The Gibraltar Parliament

The Parliament met at 2.30 p.m.

[MR SPEAKER: Hon. H K Budhrani QC *in the Chair*]

[CLERK TO THE PARLIAMENT: M L Farrell Esq RD *in attendance*]

PRAYER
Mr Speaker

Order of the Day

Clerk: Sitting of Parliament, Friday, 28th September 2012.

5

Correction to Answer provided Statement by the Minister for Housing

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Mr Speaker: The Hon. the Minister of Housing has asked leave to clarify an answer which he provided to the Hon. Damon Bossino at last week's Question and Answer session.
The Hon. Minister for Housing.

Minister for Housing and the Elderly (Hon. C A Bruzon): Thank you, Mr Speaker.
With reference to the Hon. Damon Bossino's supplementary question as to who changes the bulbs in the Mid-Harbour rental estate, I would like to inform him, contrary to what I said the other day, that this

15 is undertaken by A A Sheriff until the end of the defects liability period.

However, external lamp posts and the replacement of bulbs, this is managed by the Gibraltar Electrical Authority.

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BILLS

FIRST AND SECOND READINGS

25

The Broadcasting Bill 2012 First Reading approved

Clerk: Bills. First and Second Readings.

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A Bill for an Act to make provision for the Gibraltar Broadcasting Corporation and to transpose into the law of Gibraltar Council Directive 2010/13/EU of 10th March 2010 of the European Parliament and of the Council on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services supplementing Directive 2007/65/EC of the European Parliament and the Council of 11th December 2007 and for connected purposes.

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The Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that a Bill for an Act to make provision for the Gibraltar Broadcasting Corporation and to transpose into the law of Gibraltar Council Directive 2010/13/EU of 10th March 2010 of the European Parliament and of the Council on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services supplementing Directive 2007/65/EC of the European Parliament and the Council of 11th December 2007, and for connected purposes, be read a first time.

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Mr Speaker: I now put the question, which is that a Bill for an Act to make provision for the Gibraltar Broadcasting Corporation and to transpose into the law of Gibraltar Council Directive 2010/13/EU of 10th March 2010 of the European Parliament and of the Council on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services supplementing Directive 2007/65/EC of the European Parliament and the Council of 11th December 2007, and for connected purposes, be read a first time. Those in favour. (**Members:** Aye.) Those against. Carried.

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Clerk: The Broadcasting Act 2012.

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The Broadcasting Bill 2012 Second Reading approved

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Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that the Bill for the Broadcasting Act 2012 be now read a second time.

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This Bill introduces a regulatory structure for all broadcasting in Gibraltar and transposes the audiovisual media services Directive, Council Directive 2010-13, of the EU as the long title suggests. It also replaces the existing Gibraltar Broadcasting Corporation Act and reproduces much of the existing legislation in that respect.

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I will be introducing a number of amendments at Committee Stage and I will highlight the main ones during the course of this speech. The amendments serve five main purposes, other than correcting typos etc, as have been highlighted in the letter to Mr Speaker and which I believe were circulated to the hon. Members on Wednesday. Given the number of amendments, I will seek to summarise them now, with the caveat that they are principally technical in nature.

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Firstly, Mr Speaker, the amendments provide for the revocation of the current AVMS Regulations – the Audio Visual Media Service Regulations and that, in the lexicon of what I am going to be saying for the next little while, is usefully summarised as AVMS – by importing necessary provisions from those Regulations into this Bill and also harmonising the language used in the Bill with the language that was used in those Regulations.

The decision to proceed in this way has been taken so as to ensure that there is no confusion as to

whether a particular broadcaster is caught by the Bill or the previous Regulations, or both and at the same time to maintain a sense of continuity regarding the style and use of language in the Bill and the Regulations, especially given that the language used in the Regulations has been effective to date. The majority of the amendments, which I will propose at committee stage, fall into this category, both in terms of numbers and volume.

Secondly, the amendments will remove references to the Transmission Standards Directive and to issues relating to conditional access. On further consideration, following the publication of the Bill, it is now the Government's view that, due to the particular technical nature of these areas, the regulation of the same would be best dealt with by means of secondary legislation.

Thirdly, the amendments will provide for even greater transparency and independence relating to the appointment of the GBC Board. An amendment to the Bill imposes a requirement on the Chief Minister to consult with the Leader of the Opposition before making any appointment. There is also a further amendment, which removes the Minister's power to choose the identity of the person who audits the GBC, thus removing an instance where bias might have been insinuated.

Fourthly, the amendments specifically provide for a digital terrestrial network and for outside operators to make use of it.

Fifthly, there are amendments which move powers invested in the Minister in the current Bill to the Authority – the Gibraltar Regulatory Authority – and also removing the requirement that the Authority obtain the consent of the Minister before acting in certain circumstances. This will allow the Authority to operate independently as a regulator under this Bill.

Mr Speaker, the Bill creates a licensing regime in relation to broadcasting beyond the public broadcasting provisions of the GBC Act for the first time in Gibraltar's history. Licences will be required by all radio and television broadcasters and this will include BFBS, who are presently exempt under the GBC Act. The licensing regime removes the exclusivity which GBC has had since the early 1960s. The monopoly in broadcasting is over.

All regulatory powers are transferred to the Authority which, on commencement of the Act, will be the Gibraltar Regulatory Authority, including the powers to ensure impartiality and fairness in GBC broadcasts. These are powers which have traditionally been exercised by the Board of GBC.

This Bill also provides that all broadcasters have to provide to all persons, whose legitimate interests – in particular reputation and good name – have been damaged by an assertion of incorrect facts in a programme, a right of reply, or a remedy judged by the Authority to be an equivalent remedy. Complaints are to be made to the broadcaster in the first instance and, if the broadcaster refuses to grant the right of reply, the matter is referred to the Authority for adjudication.

The Gibraltar Regulatory Authority currently already has a duty under the European Parliamentary Elections Act 2004 to establish procedures for the handling and resolution of complaints about the observance of standards in political broadcasting. Similar powers are given to the Authority for *all* elections and referenda in Gibraltar. Until now, hon. Members will be aware that such matters have been the subject of Governor's directions. As this House is aware, Gibraltar will have a digital broadcasting network at the end of this year, which will create opportunities to exploit it commercially. It will not only be GBC that will be able to broadcast on this network and the Government and the GRA have already been in contact with an organisation which will promote the use of the network by other international broadcasters. The existence of the digital broadcasting network is catered for, for the first time, specifically in this Bill and in some of the amendments, which I will be proposing at the committee stage.

Let me now move on, Mr Speaker, to particular clauses of the Bill.

Clause 2.(2) sets out what broadcasters are deemed for the purposes of the Act to be established in Gibraltar. In relation to this particular sub-clause and, as I mentioned above, I will be proposing an amendment at Committee Stage, which would include non-European broadcasters which are licensed in Gibraltar to broadcast on the digital television network within that scope.

Clause 2.(3) sets out which broadcasters outside of sub-clause (2) are under the jurisdiction of Gibraltar and includes those who use, for example, a satellite uplink situated in Gibraltar.

Part II of the Bill deals with the administration of the Act.

Clause 4 sets out the general functions of the Authority, which include regulating, supervising and enforcing compliance with conditions to which licences are issued. The Authority will further be tasked with investigations of any breach, regulating apparatus used and setting standards in technical specifications relating to broadcasting.

Clause 5 empowers them to publish relevant information and advice.

Clause 6 gives the Authority the power to require information relevant to their supervisory powers and duties under this Act. Failure to comply without reasonable cause is a summary offence. Giving false or misleading information is an either-way offence under clause 7. Information supplied to the Authority must be dealt with in compliance with clause 8, which creates restrictions on disclosure.

Clauses 12, 13 and 14 deal with the issue of directions and administrative notices by the Authority. References to the Minister in clauses 13 and 14 as being empowered to issue such notices are the subject

140 of an amendment I will be proposing at Committee Stage. The amendments will remove the need for the consent of the Minister, or for a consultation with the Minister to be necessary before the power is used.

Part III of the Bill creates the regime for the licensing of broadcasters.

Clause 15 sets out general licensing powers and I will be proposing an amendment, which makes it clear that this includes digital, terrestrial television. Fees for licences under this section will be set up by the Minister by regulation. It will be an offence to broadcast in Gibraltar without a licence.

145 Licences under this section do not affect requirements under Part VI of the Communications Act, which deals with radio communications. The requirements that the Authority needs to take into account are set out in Schedule 1 and Schedule 2, which set out who is restricted from holding a licence. Paragraph 6 of Schedule 2 gives the Authority discretion to refuse a licence to newspaper proprietors on public interest grounds only. There is no blanket prohibition for such proprietors from holding such a licence.

150 Let me say, Mr Speaker, that this position replicates what is the case already in the United Kingdom, although there are many entities with interests in newspapers that own and operate, either wholly or in partnership with others, media outlets that include digital or satellite television ventures. Our own view, as a Government, is that there would have to be a very good reason indeed why the regulator should consider that they need to exercise this discretion to prevent any entity with interests in newspapers from operating a digital broadcasting service in Gibraltar, but we have reserved the discretion in case there were to be a good reason in the future in the public interest of Gibraltar.

The final provisions of this part deal with enforcement etc of licences and include provision for financial penalties, enforcement notices and, as an ultimate sanction, the revocation of a licence.

160 Part IV deals with broadcasting standards and, to a great extent, simply replicates similar existing provisions contained in the AVMS Regulations. Examples of matters dealt with in this part include the issue of codes of practice, the recording of broadcasts, information in respect of providers of media services, prohibition of incitement to hatred, matters dealing with advertisements, teleshopping and sponsored programmes etc, the protection of minors and other such matters. Amendments to be proposed at Committee Stage also make similar provisions for accessibility, proportion of distribution and production of television programmes and a requirement to report to the European Commission. There are also amendments in this part which import the language used in the AVMS Regulations by substituting the equivalent clauses in the Bill with a new clause based on that language. The Bill goes further than the Regulations, in that it extends some of the above to audio transmissions, especially with regard to advertising.

165 Parts V and VI deal with exclusive rights and short news reports in television broadcasting and the right of reply. These are examples of where we have taken the current wording of the Regulations and imported that into the Bill.

170 Part VII provides for the regulation of community broadcasts, which, in effect, replicates provisions which are currently in parts 2 and 3 of the AVMS Regulations which are being repealed.

175 Part VIII deals with conditional access and there is an amendment which would delete this part as a whole for the reasons I have mentioned earlier.

Parts IX to XII replicate the equivalent parts of the GBC Act with some amendment.

180 Following an amendment I will be proposing, as mentioned earlier, the Chairman and board of GBC are now to be appointed by the Chief Minister, after consultation with the Leader of the Opposition, as opposed to the current position where the appointment is by the Governor, a power which I understand has long been exercised *in consultation with* the Chief Minister of the day, although the present Act does not require it. I believe that for the Chief Minister of the day – not the Minister for Broadcasting, but the Chief Minister, although at the moment I happen to be both – to have this power to exercise in consultation with the elected Leader of the Opposition, is the right way to progress this particular aspect of the governance of our community. There will not be a requirement to clear names with the Governor before publication in the *Gazette*.

185 The principal function of the board of GBC will now be to ensure the good governance of GBC. As I mentioned earlier, the independence aspects become the responsibility of the Authority. An amendment to clause 57 deals with the audit point I also mentioned earlier.

Part XIII extends the emergency powers the Governor had under the GBC Act to all broadcasters.

Part XIV deals with appeals against decisions made by the Authority and the appeals are to be to the Supreme Court.

190 Part XV includes miscellaneous provisions, including offences and repeals, where I intend to include the mentioned repeal of the AVMS Regulations at the committee stage.

195 Mr Speaker, to deliver arm's-length regulation of a new digital broadcasting network, to deliver independent regulation of public service broadcasting and to deliver the end of GBC's monopoly over broadcasting in Gibraltar, I commend the Bill to the House.

200 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general

principles and merits of the Bill?

The Hon. the Leader of the Opposition.

205 **Hon. P R Caruana:** Yes, Mr Speaker, regardless of the fact that large parts of this Bill are done by compulsion of EU obligations, we think that the creation of a broadcasting regulatory framework is a good thing and welcome.

210 We shall not, however, be voting in favour of this Bill, which contains provisions which we think prevent us from supporting it, and even if the hon. Members are not taken by any of the views that I express on matters that may go more to policy choice, I hope they will be taken at least by the observations that I make about matters that are not really political in nature but more technical in nature and which we think are deficiently provided for in this Bill, some of them quite serious – indeed, one of them I think unconstitutionally so.

215 Mr Speaker, can I just address one of the last points that the Hon. the Chief Minister has made about the supposed alteration of who appoints and who consults and who consults and who appoints the board. Certainly, during all of the years that I was Chief Minister – and I suspect the same is probably true of the years of even my own predecessor as Chief Minister – the appointment of the board of GBC has not been by the Governor in mere consultation with the Chief Minister; it has been by the Governor, because that is what the Act says is the appointor, but acting on the advice of the Chief Minister. In other words, it has always been, certainly since the mid-90s, a decision of the Government/Chief Minister of the day pursuant to a letter – the existence of which I hope he is aware, and if not, he now is – of a letter which is now less important because, of course, we removed the Governor from all of our legislation, or from most of it – a process which, by the way, I do not think we quite finished; there were a handful of Acts which we left undone, which I will recommend the hon. Member to finish... But anyway, at the time that our legislation was littered with references to the Governor, in the time of the *previous* GSLP Government they secured out of the Foreign Office a helpful letter – I suspect that if Mr Bossano was in the Chamber he would be able to now smile and take credit for this and, indeed, it would be due to him – a letter in which the Foreign Office recognises that where an Act of Gibraltar’s Parliament refers to ‘Governor’ and the exercise of powers by the Governor in the context of defined domestic matters, such as broadcasting, those powers were exercised by the Government. In other words, ‘Governor’ meant ‘Government’ in terms of making the underlying decision, and so it was in almost every Bill. The Public Health Act was riddled with references to ‘Governor’. So this Act, in a sense, does little more than formalise in terms the arrangements as they have been, as I have always known them, and therefore it is difficult to present it as any great increase in transparency, except... I mean it would be a considerable increase in transparency if the appointments that the Minister makes were subject to the *consent* of the Opposition, but simply to submit to the process of consulting the Opposition and then perhaps ignoring their views and proceeding with whatever appointment is towards the box-ticking end of transparency, rather than towards the effective end of transparency.

240 But still, Mr Speaker, I do not criticise him for effectively choosing to continue with a regime, which is the one that we had and presided over in terms of [*inaudible*] appointment. It is an important responsibility in a small community like Gibraltar for the choice of the board of GBC, for reasons that he has known and may often have felt the victim of in the past when they were in Opposition. People attach a lot of importance to what GBC says and does and, for that reason, the selection of the board. At the end of the day, we were in that position for 15½ years and they are in that position now. We like to think we did not abuse that power and we would like to think that they will not do so, either. I notice by his smirks that he does not share my statement – presumably the first part of my statement, although I suspect they subscribe to the second part of it about my hope for the future.

245 Mr Speaker, I cannot agree that this Bill does not increase GoG’s powers over broadcasting. I think it does that and in the context of the regulator... although I accept that some of the amendments that he has given notice of are helpful, particularly in one section that I will come to in a moment, without which amendments this Bill would have been pretty objectionable in terms of the seizure of political control over the actions of the Authority, in terms of... I will come to the section number in a moment. I cannot recall it and it is marked here for acknowledgement. Without the amendments that he is proposing to that section it would have effectively put the Authority under the tutelage of the Minister for the purposes of the criteria that the Authority has to bear in mind. We will come to that. But, anyway, it is an amendment of which we approve thoroughly.

250 I have to say, Mr Speaker, before getting into the main points arising from the Bill, that the idea that the Opposition is given little more than 24 hours to consider 33 pages’-worth of amendments makes something of a mockery of the parliamentary process. Having been on that side of the House for many years, I do understand the need for amendments. Some of them are pointed out to the Government late in the day; it used to happen to me. But we now have a constitutional legislative process, whereby Bills are published six weeks in advance. It ought to be possible, in the case of amendments of the scale and magnitude of this Bill, to produce them sooner than 26th September – which, if my calendar management

265 serves me correctly, is the day before yesterday – and in a letter, which runs into page 33, full of amendments. I have no reason to doubt what the hon. Member says, that they are mainly of a technical nature, but the hon. Member will understand and accept, I am sure, that it ought not to have to be taken on the word, that the Opposition should have a reasonable period of time to consider amendments which really go to a substantial part of the body of the legislation.

270 So, in respect of the amendments... and we have just had an opportunity to scan and really limited ourselves to picking out the ones that we think went to ministerial powers which is, of course, the area in this field which would most concern us, I do not know whether we would agree or would not, so we do not take *issue* with the amendments. Simply to say that in the time available it has not been *possible* for us to test what the effect is of the amendments, compared to the legislation from which they are said to be imported, and whether the importation is pure or impure, in the sense of the context in which they now find their place in this new piece. As I say, we have no reason to doubt what the hon. Member says *but*, in the time available, we have no means of assessing that for ourselves.

275 I just wonder if, when the hon. Member replies to me, he might just like to tell the House what, if any, effect this Bill has on what one might loosely call in Gibraltar the existence of satellite clubs and things of that sort and whether this Bill, in his view, impacts on that or does not impact on that.

280 Mr Speaker, delving then into the Bill itself, we find in the context of this area... I do not say that there are not areas of legislation where the concept may be less objectionable, but in the context of the regulation of broadcasting, we find that clause 3(2) is so all-embracing as to really render the rest of the Bill nugatory. After all, if the Minister and the Authority may do *anything* that appears to them to be incidental or conducive to the carrying out of their duties, what is the purpose of purporting to set out what it is they can do and not do? In effect, this is a blank cheque to do anything they like so long as they believe that it is incidental or conducive to the carrying out of their duties.

285 Mr Speaker, I have also not been able to alight on an interpretation of clause 8, read with clause 6, which is not entirely circular, to the point where it renders clause 8 and clause 6 in part, completely otiose. So clause 6.(1) says:

290 ‘The Authority may, for the purpose of performing the functions assigned to or conferred respectively upon them by or under this Act, by notice–’

295 – and then it gives a list, and then there are sections which provide for the information that they can ask for and the purpose for which they can ask for.

Then clause 8.(1) says:

‘Subject to the following provisions of this section, no information with respect to a particular business which–’

300 – and then it says (a) and (b).

Then it says:

‘(2) Subsection (1) does not apply to any disclosure of information which is made for any one or more of the following reasons–

305 (a) for the purpose of facilitating the performance of any duties or functions assigned to or conferred on the Minister or the Authority by or under this Act;’

310 If the Authority can ask for information, under 6, only for the purposes of their duties under the Act, clause 8.(1) says that they cannot, in effect, publish it, and then clause 8.(2) says but the prohibition against publication does not apply for any reasons

‘...for the purpose of facilitating the performance of any duties’,

315 you are back to where you are. In other words, you can demand information for purpose (a), you cannot publish them, or you cannot use them for particular... or you cannot publish it *unless* sub-clause (2) applies and the first thing that sub-clause (2) applies is that you can publish it for the purposes that you asked for it, which is of the Board. So it seems to me that all information can always be published, because it can only be asked for for the purposes of the Authority’s duties, and *if* that is an exception to the non-publication rule, then in what circumstances can it not be published? Therefore, I cannot understand what the purpose of the restriction, or the purported restriction in publication is in 8.(1).

320 Mr Speaker, turning now to the regulation-making power in clause 9, I think that clause 9.(1)(b)... and on this side of the House we believe that clause 9.(1)(b) is objectionable. In other words, what clause 9.(1)(b) does is that, in respect of offences created by the Act, the Minister would later set penalties by regulations. I have come across, before, offences created by regulations and the Minister, in the same regulation as he created the offence, created the penalty. I have also come across regulations which

establish penalties for offences created by some European regulation of direct application to Gibraltar. I cannot remember *ever* having come across a Gibraltar Act of Parliament which creates offences, does not establish the penalties for them and postpones and defers the creation of penalties for offences created by primary legislation to a subsequent exercise of an unaccountable discretion by a Minister in subsidiary legislation.

Clause 9.(1)(b) says:

‘the procedure and principles for the imposition of financial penalties on a person who fails to comply with an obligation imposed on that person under, or pursuant to, this Act...’

– shall be done by regulations. We are talking about regulations that can create penalties of as much as two years’ imprisonment and fines of an apparently unlimited nature.

I applaud the hon. Member’s amendment to clause 13, without which this Bill would have been even more objectionable, and that is the section the number of which I could not remember before. Clause 13, basically where all the references to ‘Minister’ have been taken out and replaced by references to ‘the Authority’ only and it no longer renders the Authority subject to criteria and other things published by the Minister under administrative notices.

Mr Speaker, turning to clause 15, which is the general licensing power, and specifically to clause 15.(3), we could not support a Bill that allows the Minister to decide by himself. Wherever it says ‘consultation’... Consultation is not a check or a balance. Consultation is asking people what they think and not being bound by what they tell you, as opposed to acting on the advice of – (*Interjection*) Sorry? The idea that the Minister by himself should have the power to exempt a particular broadcasting service from the licensing requirement seems to me a huge power. There is no reason why such a power should be exercised.

If Parliament thinks that licensing should be broadcast and that the GBC monopoly is over and we are creating a licensing regime, I do not see what the need is for the Minister to reserve to himself a power to decide that a particular broadcaster, or a particular broadcasting service, should be allowed to broadcast outwith the regime created by this Act.

Mr Speaker, clause 20 deals with financial penalties and this is a section which I think may be unconstitutional.

Clause 20 allows the Authority to impose financial penalties, if I have correctly understood it, basically in shorthand, up to a certain percentage of the financial turnover of the organisation in question – and there is no right of appeal. The clause in the Bill that deals with the rights of appeal, which is clause 67, lists the decisions which are eligible to be appealed against. It does not include the imposition of financial penalties by the Authority and then says that no other decision of the Authority can be challenged in any court of law by any means or process.

I think it is *unconstitutional*. The imposition of a penalty without right of appeal, from my memory of the Constitution, although I reserve the right to be shown to be wrong, is unconstitutional. It violates a specific term of the Constitution, and even if it did not, it is wholly undesirable that any public organisation should have the power to impose financial penalty, or penalties of any kind on any citizen, without that citizen having the right and, indeed, being statutorily prohibited from, having that decision reviewed in court.

With slightly less vigour but not to be disregarded for that reason, I hope, I would make a comment in relation to clause 22, where the Authority is given power to make codes of practice, non-compliance with which threatens the licence, subjects to potential penalties, without those codes of practice having to be debated by Parliament, or tabled in Parliament and, again, no right of appeal, no right to challenge. I do not suppose it would be a right of appeal, it would be a right to legal challenge. So, if the Authority were... I do not want to use a ridiculous example, because then the hon. Members will put it in their press release after this, will use it against me, but if the Authority were to issue a code which was absolutely objectionable, it could not be challenged by any broadcasters in court because of the complete prohibition against challenging *any* action of the Authority in court, except by the exercise of the clause 67 right of appeal, and this is not listed in the things that you can appeal against.

I am all in favour of the exercise of regulatory function by independent regulatory bodies, but even they... the fact that they are independent of the Government does not mean that they should not also be accountable to the courts for their own independently exercised judgements. Indeed, I think that the codes of practice and the power of the Authority to issue codes of practice is so deep and wide and far-reaching in an area as important to modern society as broadcasting that I think those codes of practice should be tabled in Parliament and subject to parliamentary review, as is the other area of very important in society where codes of practice can be issued, in terms of the judicial... I cannot remember the name of the legislation now... the Judicial Commission Act, where hon. Members may remember... codes of practice to be issued etc.

It may be that I am misunderstanding clause 24.(1), Broadcasters’ duties, but is it really the

intention... I can understand that

390 'Every broadcaster shall ensure that –
(a)'

395 and (a) deals with news and that news shall be given objectively, impartially and without expression of the broadcaster's own view, but is it possible for the same to happen in (b)? Is it possible for a broadcaster to have a current affairs programme in which there is no expression of the broadcaster's views? Obviously, Mr Jeremy Paxman is not subject to the same rules in England. In other words –

Hon. Chief Minister: Yes, he is.

400 **Hon. P R Caruana:** It may be that this is the case and that this is a perfectly workable system but, in current affairs programmes, it is *inevitable* that presenters and moderators and interviewers end up making comment which amount, directly or indirectly, to the communication of a view. But, as I say, this might be... The fact that it is lifted straight from UK legislation is, frankly, I discovered while I was there, not by itself a sufficient certificate of reliability.

405 Mr Speaker, turning to clause 37:

'(2) The Minister may prescribe that events on the list shall be made available live, partially live or by way of whole or partial deferred coverage.'

410 I do not know whether this is an *intended* provision or whether it is just the effect of casually chosen language. Sub-clause (1) does not give the Minister the right to decide that particular events need to be broadcast, but rather that, if they are, they cannot be broadcast on an exclusive basis. That is the effect of the clause, so the Minister for Broadcasts cannot say; you *shall* broadcast the GSD annual general meeting –

415 **A Member:** [*Inaudible*] (*Laughter*)

420 **Hon. P R Caruana:** It says – no doubt, under future leadership, it will have them regularly – that if the GSD annual general meeting is on the list under sub-clause 1 that the Minister has put together, that it cannot be broadcast exclusively. GBC cannot say only I can broadcast it. Now, read sub-clause (2) in relation to sub-clause (1), sub-clause (1) being the operative sub-clause.

425 'The Minister may prescribe that events on the list shall be made available live, partially live or by way of a whole or partially deferred coverage.'

In other words, in determining the three manners of broadcasting, a power has been introduced which means that he *can* order particular events to be broadcast. Because read by itself, it has that effect.

430 'The Minister *may* prescribe that events on the list shall be made available...'

- one, two or three but made available– so the Minister could put the GSD annual meeting on the list and then say you *must* broadcast it, 'either live, partially live, or deferred coverage', but broadcast it, you must.

435 If that were the intention, it would be in sub-clause (1), not in sub-clause (2), which is *intended* to deal only with whether the non-exclusivity applies to live, recorded, etc.

It may not be the hon. Member's policy intention to empower the Minister to order any broadcaster that they *must* broadcast a particular event (*Interjection*) Well, it cannot be made available, if you do not broadcast it. (*Interjection*) Then you are ordering somebody to record it. You cannot broadcast it without recording it... without covering it.

440 Mr Speaker, look, I have to make the point, so it is up to the hon. Members to decide (a) whether they have any merit and, even if they do have merit, whether they agree with that.

I understand the power of parliamentary majorities. I make these points and observations in good faith

445 **Hon. Chief Minister:** [*Inaudible*] inform the debate.

450 **Hon. P R Caruana:** Yes, well, Mr Speaker, the Bill, in our view – the hon. Member is honourable to interpret it differently, but in our view the Bill says that the Minister may prescribe that events on the list *shall* be made available. (*Interjections*) That is not what it means. (**A Member:** Yes.) *Shall* be made available live, is available to recipients of the broadcast, not to other broadcasters!

Hon. Chief Minister: The hon. Member has made a number of points which I will deal with in my reply, but if I can just contribute to this part of what he is saying.

As I understand that clause, Mr Speaker, comes from a European requirement that certain
455 broadcasters who may be transmitting these events, which are on the list, are not entitled to keep that video of the event to themselves and they must make them available to other broadcasters who may wish to include excerpts of it in their news broadcasts, or may also wish to broadcast it live.

It is certainly not the intention – if the hon. Member says that it can be read that way, perhaps we need to look at the wording of it. It is certainly not the intention – I do not think it can be – that people *must*
460 transmit something. It is that those who are recording it or showing it live, if they wish to, have to make it available to *other* broadcasters for those purposes. That is how we read it.

I invite the hon. Gentleman to see whether that reading fits within that clause.

Hon. P R Caruana: Mr Speaker, of course it fits and that objective is an entirely logical part of the architecture.
465

That interpretation would be an entirely logical part of the architecture of not allowing particular broadcasters to hog a particular event. The only way that you can not hog it, is by being ordered to make it available to others and that making of it available to others, can be live, partially live or whatever.

All I am saying is that language that makes that clear would render the clause unobjectionable but, *as drafted*, it is not limited to that interpretation, because the Minister may prescribe that events on the list
470 *shall* be made available live. You are saying that it should be read like this: if a broadcaster broadcasts an event, which is on the sub-clause (1) list, *if* both those things have happened, then the Minister may prescribe that that event shall be made available to other broadcasters, either live, partially live... Read like that, which is how the hon. Member has described it, it is completely unobjectionable. The hon. Member's interpretation, which is innocuous, is not the only interpretation to which that subsection is
475 capable.

Hon. Chief Minister: If the hon. Gentleman will give way. If the hon. Gentleman looks at sub-clause (4) he will see that there is an obligation to refer this list also to the European Commission, so it is a list for the purposes of competition of the events in a particular territory so, in other words it is not 'and you shall transmit the GSLP annual general meeting live into every home in Gibraltar, whether you like it or not'.
480

It is designed as a competition counterbalance measure, which is why the requirement is there for the Commission to be informed of the list. So that those who might wish other events to be on the list, which are not listed by particular countries' Ministers with such a power, can, through the Commission, say,
485 'Well, Minister, why are you not putting the Miss Gibraltar show, which is the one everybody wants to share, not the GSD annual general meeting, on the list?'

Hon. P R Caruana: I do not doubt that is the case, which is why I started my intervention on this point with the caveat that I did not think this was a policy choice, that this was just a juxtaposition of language. Anyway, enough said, Mr Speaker, it is up to the hon. Members to decide whether they think there is any merit in the point.
490

Mr Speaker, turning to clause 39 and it is no... where there is latitude in how you transpose directives, it is no... if the way that we choose to do it, is undesirable, it is no consolation to be told that this is a provision of the Directive. The whole regime of right of reply which, at first glance, looks real and useful
495 and valuable, I think is rendered not so by the architecture of deadlines that have been put into it. The easiest way to illustrate the point is this – and I will just do it by reference to three milestones in the whole process, rather than go in detail through the whole regime. In a nutshell there is a right of reply, but sub-clause 5.(a):

500 'The broadcaster... may refuse to provide the right of reply...'

if *he* thinks that it 'is not justified'. What are the remedies, then? If somebody feels aggrieved, they ask for the right of reply, the broadcaster says I do not think it is justified. So what then is the remedy available? The remedy available is all the rest of it that follows. In a nutshell, that will take 42 days
505 because, under clause 7, there is 20 there, the Authority has 28 days to adjudicate on it and even if they adjudicate in your favour, the broadcaster then does not have to publish anything for the next fourteen days.

I do not see why, in a small place like Gibraltar, it should take 42 days to decide whether somebody has been justified, feels justified... the hon. Member knows that there are very few grievances which are not made worse, rather than better, by being revisited 42 days later. So you get... somebody calls you all things under the sun, or treats you very unfairly politically, or whatever, and 42 days later, just as
510 everybody is forgetting about it, the whole thing gets dragged up again. It just seems unnecessary,

frankly. I would much prefer to see there a simple provision that if the broadcaster wants to invoke 39.(4)(a), then the Authority can consider the matter in a handful of days and direct and should have the power to *direct* the broadcaster to broadcast.

The benefit of the doubt, the balance of doubt should be in favour of the victim, not of the perpetrator. It would not do a broadcaster a great deal of harm to give somebody a right of reply in circumstances where they might not deserve it. It is much more serious for the person *not* to get the right of reply in circumstances where they might.

Mr Speaker, I think the amendment that he proposes to clause 47.(2) of the Bill, that is to say, not allowing the Minister to make the decision of who should be on the Board of GBC, but repatriating it to himself, is correct. But it does not sit well with his usual boasts that he is just a normal Minister, that they are all equal in the GSLP Cabinet, and that he does not exercise more power than anybody else.

I support, given the importance of the matter, that it should be the Chief Minister, which is why I always exercised it in consultation, perhaps, with Ministers, but a chief ministerial power, rather than a ministerial power, but I see that the hon. Member's desire to bring this back to *him*, rather than allow somebody to give it to the Minister, did not appeal to him, despite being a genuine and literal case of *primus inter pares* – which is what he claims, but I do not think anybody else believes. I hope that, by now, he is learning that *primus inter pares* is a luxury which effective governance renders pretty unaffordable. (*Interjections*) Well, if he has not learnt it yet, he will before much longer! I can tell him.

Mr Speaker, turning now to clause 62, which is taking legal proceedings against GBC, I think that these provisions are indefensible, *even* if they are in the existing Act.

Hon. Chief Minister: Which clause?

Hon. P R Caruana: Well, I am going to talk generally about Part XII; it is on page 105 of the Bill.

If we are taking an opportunity, I do not know which of these provisions is in the GBC Act, or it is not. Frankly, it matters not. We should not in this day and age be legislating in these terms. If we think we are reforming, we think we are just transferring the old Act into the new Bill, regardless of the effect of it, I don't think, then that is another matter. That will be a policy decision for the hon. Members.

Clause 62 itself,

'The exercise of any discretionary power with respect to broadcasting content made by the GBC shall not be challenged except by way of a complaint to the Authority.'

Well, Mr Speaker, *he* who has been elected by the people of Gibraltar – *albeit by a small margin* – to be the Chief Minister, does not enjoy this privilege. Why are you giving it to anybody else? The idea that it should not be possible in the courts that we are excluding from the competence of the courts the ability to challenge, even by the Wednesbury principles, the editorial decisions of GBC's Board is antediluvian in the context of modern-day access to justice by citizens.

As I say, this is not a statutory cover against legal challenge that *he* enjoys or that any of his Ministers enjoy. Why are we bestowing it on others, who are not accountable to the people who cannot be elected and are not hireable and fireable by anybody, except by them, except by the Chief Minister?

Then clause 63 is, in a sense, even worse. clause 63 says:

'No civil suit shall be commenced against the GBC before the expiry of one month after written notice...'

How on earth do you get an injunction against GBC in respect of a programme that you think they are broadcasting tomorrow, if you have got to give them one month's notice of civil suit? I do not know whether this provision is in the existing Act or it is not, but if it is, it needs to be confined to the dustbins. I do not think it has been honoured in practice, because I am well aware that people have commenced legal proceedings against GBC and have obtained injunctions or gone to court seeking injunctions against GBC. How they did it in the light of this provision, if I take the hon. Member's word for it that it exists in the Act, I do not know.

I think it is wholly undesirable, particularly against a broadcaster who may be about... The BBC does not enjoy this in England. The idea that you know that GBC is going to publish a programme that a court of law would injunct but that you cannot get an injunction until 30 days' time, because you have got to give them a month's notice of the injunction, is obscene in its effect on the rights of the citizen and on the individual, and I think that this clause has got to go. It serves no useful purpose, it is oppressive of the rights of citizens and it is not protection to which a broadcaster should be entitled in the 21st century in our modern European community.

Mr Speaker, perhaps I might reserve some of my controversial but also advisory and informative remarks in relation to Part VIII, Emergency Powers. I recognise the hand of the Foreign Office legal department here. I say that I 'recognise' because I suggest the hon. Member has been subjected to the

575 same treatment as I was often subject to when junior lawyers in the Foreign Office got their hands on our legislation whilst it was still on the green paper.

Mr Speaker, there is an important underlying issue here which transcends the importance of the substance of this section, even though I think the substance also has importance, which I will come to in a second. There is a view in the Foreign Office, which I think is *wholly incorrect* – and this is not a point I am making against the hon. Members, because it used to be deployed against me as well – here is a view inside the Foreign Office legal department that the Governor’s constitutional responsibilities trump everybody else’s so that, if the Governor is responsible for internal security and the hon. Member is responsible for broadcasting, when it comes to the internal... If there is an internal security dimension to broadcasting, then his – the Chief Minister’s – competences are pushed aside in favour of the Governor and, in my view, that is a wholly indefensible legal interpretation.

Let me illustrate my point by this example. This is worth hearing and he ought to put his mobile phone down for a minute.

590 **Hon. Chief Minister:** No, I am looking for something which relates to exactly –

Hon. P R Caruana: Alright, well in a moment, Mr Speaker, because this is not a point in which I suspect that we need to argue across the floor. I hope we are on the same side on this.

Let me illustrate my point by reference to an example which I think proves it beyond peradventure. For that statement that I have made earlier to be true of the effect of the Governor’s internal security constitutional powers over the hon. Member’s, opposite, powers of broadcasting, the same would have to be true, because it is the same Constitution subject to the same constitutional interpretation mechanisms, of the judiciary. Would anybody argue that it is a tenable sustainable interpretation of the Constitution that, in times of emergency and if the internal security of Gibraltar required it, the Governor could usurp the independent judicial functions of Gibraltar’s judges? No. Well, then, exactly the same applies to anybody else who has constitutional powers. There is not one rule of constitutional interpretation when it comes to whether the Governor’s powers trumps the judiciary’s powers under the Constitution and a different one as to when the Governor’s constitutional powers trumps the judiciary’s constitutional powers.

605 If this insidious attempt by a small element, I suspect, in the Foreign Office, to claw back a role for the Governor in our legislation by the deployment of this outrageously irrational, practically infantile, argument of constitutional statutory interpretation is allowed to go unchecked, you will end up with this clause in every piece of legislation that you bring to this House because everything has a potential internal security dimension.

610 Next time we pass amendments to the Traffic Act, they will be telling you that because a terrorist can load a car with explosives and drive it into somebody and cause an explosion, that there is a potential internal security dimension – traffic. Where does it say that the Government’s constitutional powers are subservient to the Governor’s constitutional powers and that the Governor assumes responsibility for things that are normally the Government’s constitutional powers when internal security may be a peripheral affected issue? It does not. This is just the Foreign Office helping themselves to their unilateral... which is why we passed the Bill giving the Government power to *test* the constitutionality of a Bill before it comes to this House, which is why the Foreign Office did not like the idea that the Government passed that Bill, and there was a Bill – I cannot remember the exact name of it, the Bills Constitutionality Act or something – which was passed precisely in response to a dispute of this sort with the Foreign Office, so that the Government, when deciding whether to bring legislation affected by this question to this House, cannot be unsettled by the threat that it might not get Governor’s consent. That Bill gives the Government an alternative route. You *test* the constitutionality of the Bill before you bring it to this House and if the court says that it is constitutional, then they cannot withhold their consent, because that is the only ground they are entitled to withhold it for. That was the whole purpose of that Bill.

625 The same, frankly, applies to the proposed amendment in clause 41.(4)(c), although I do not know if that is already in some other piece of legislation. This is not a criticism of the fact that the hon. Members have submitted to it. We invested a hell of a lot of time on page 26 of his letter, where it says:

630 ‘...where the reason for the intended adoption of a measure is the safeguarding of the internal security defence of Gibraltar and is of such a nature as to fall within the Governor’s constitutional responsibility and the Governor has informed the Minister that the measure needs to be taken and so directs the Authority.’

635 It is not the case, in our view, that the Governor, because he is responsible for internal security, is responsible constitutionally for the internal security dimensions of broadcasting and traffic and public health and firefighting and everything else, any more than we are as constitutionally responsible for the dimensions of *genuine* internal security, which are his, which may invoke other areas that we are

responsible for.

I can only suspect that the reference to ‘Government’ on the second line of clause 66.(1) is a Freudian slip:

640

‘If at any time the Governor is satisfied that it is necessary for the preservation of internal security that the *Government* should have control over broadcasting in Gibraltar...’

645

(*Interjection*) Yes. No, Mr Speaker, but he will say that the Government includes *him* – I do not mean this particular Governor; I mean him, the office of Governor – and it cannot be that because it says:

‘(2) If and whenever the Governor exercises the powers conferred upon him by subsection (1) the broadcaster shall be entitled to receive from the Government –’

650

Mr Speaker, if the hon. Member is going to tell me – which I would welcome – that, in effect, what the Governor is doing is invoking internal security powers for the *Government* – (*Interjection*) I beg your pardon?

655

Hon. Chief Minister: As prerogative..

Hon. P R Caruana: Well, Mr Speaker... but if that is the case, it is the Government’s prerogative, not the Governor.

660

The idea that the Governor suspends the Constitution, suspends the Broadcasting Act, not in favour of himself, as the party responsible for internal security, but in favour of the Government, if he has achieved that, then he has achieved a little bit more in this area than I, although I was able to...

Hon. Chief Minister: Black and white. It is all [*inaudible*].

665

Hon. P R Caruana: Well, Mr Speaker, I doubt very much if that is intended, but if that is what is intended, then the more direct way of doing it would be for the Government to do this directly. The Government is perfectly capable of... I am not suggesting it should be so, but there are plenty of other pieces of legislation – the Civil Contingencies Act, for example – the Emergency Powers Act, for example, gives the Government and Ministers, direct powers in cases of genuine...

670

I am not so concerned about this *particular* provision, although it has its importance, but certainly the whole question of the need in the context of this and 47 whatever it is – 47.(1) or (2) as referred to – that we should just keep... There will be pieces of legislation – and I sometimes conceded this to the Convent – which do *genuinely* go to the Governor’s constitution... This is not about us wanting to *usurp* the Governor’s constitutional responsibilities or to somehow redraw the lines of the constitutional settlement of 2006. We, on this side of the House, are very content. It is about making sure that, through this mechanism, these lines are not blurred against us.

675

The Government will *always* enjoy the support of this side of the House and should not fear the parliamentary consequences of a dispute with the Foreign Office in relation to anything that genuinely goes to holding the constitutional line.

680

You will *not* enjoy our support if the legislation is trying to circumvent the proper constitutional, the proper delegation, the proper constitutional assignation of powers to somebody other than the Government and this Parliament, for example, the judiciary or the Governor, or whoever it might be.

The powers lie where they lie. They are there by agreement with Gibraltar, but they should then respect those and not, by this side door, try to enlarge the impact of that constitutional settlement in their favour.

685

Mr Speaker, turning now to clause 67, which is the appeals section, the hon. Members will see at 67.(1) that the right of appeal is limited to (a) to (f), to the six matters listed there at clause 67.(1).

690

Leaving to one side for a moment the fact that that is *all* that can be appealed against, and there are many important things that cannot be appealed against, even this right of appeal, limited to these six matters can only be exercised with the leave of the court. Mr Speaker, *why* should a citizen have to get the leave of the court to exercise his first right of appeal? I am familiar with the concept of the leave of an upper court for a subsequent appeal in other areas of our law – indeed, it is constitutionally permissible – but that the *very first* appeal by a citizen against the decision-making should be subject to appeal is just putting justice even more out of the axis of the ordinary citizen. He has got to spend the money litigating, obtaining the right – the leave to appeal – and then he has got to spend money again actually prosecuting the appeal. What is the need for it? The court is perfectly capable of throwing out frivolous, vexatious and unmeritorious appeals, without having to put the citizen... without having to load the dice this heavily in favour of the broadcaster.

695

Then, sub-clause (7) I think is unduly onerous in its effect.

700 'The bringing of an appeal under this section shall not operate to suspend the effect of the decision appealed against saving that the Court may award such interim relief as it sees fit.'

This is all very well and, of course, there is a similar provision in quite a lot of bits of legislation, but we are talking here about the revocation of somebody's licence – I mean, literally close down your broadcasting station at 6 o'clock tonight – because I passed a code, which is inappealable, a code of practice you disobeyed and I have directed you to close down. You have got to close down, you cannot appeal, the appeal does not *stay* the effect of the order. I think this is simply too draconian. In financial services, the regulator does not have any power of this kind. The Financial Services Commission does not have power to revoke and suspend people's licence without putting them on notice, giving them opportunities to comment, etc. A process. It has not arisen in that case. (*Laughter*)

710 I just do not see why we are making... we are not following the same, well-established template in relation to this new regulatory framework and challengeability of their decisions. We now have an established regulatory framework; we have it in quite a few areas; we have it in financial services, we have it in telecommunications. We do not need to reinvent the wheel every time we regulate an activity. We can just borrow the regime with which we are familiar.

715 Then, clause (8):

'Except as provided by this section the validity of a decision to which this section applies shall not be questioned in any legal proceedings whatsoever.'

720 So you get an appeal, but you are not entitled to judicial review – it is probably ineffective; you cannot exclude the court's jurisdiction in judicial reviews. It is completely ineffectual and ineffective. Why are we passing legislation that we know is a nonsense?

I think I heard the hon. Member clarify in his – well, state by way of clarification – I think I understood him to say in his own opening address that the effect of the new powers of the Authority are that *they* will be the ones to make what used to be called 'Governor's directions', in terms of impartiality in the electoral context (*Interjection*) Yes, but who makes them? I am not focused on the provision that specifically empowers them to make it, not just in respect of directions of that sort, but also where does it say that there will be party political broadcasts? At the moment those things are in Governor's directions, so is it now up to the Authority to decide whether or not there will be party political broadcasts in the future and the terms of it? This is a pretty... it would be a pretty – (*Interjection*) sorry?

Hon. Chief Minister: Only for Government.

735 **Hon. P R Caruana:** No, I am quite happy for the hon. Members to have party political broadcasts: the more the better, so long as I have my proportionate share of them, too! The point I am making is that obviously it is the intention that *somebody* will do this and it is not immediately clear who or where it is provided for and *if* it is the Authority, they should not have a discretion, they should be *required* to do it.

740 Trying to make it fit within a discretionary power grant is not good enough, Mr Speaker. He cannot have a discretion *not* to have party political broadcasts. There has to be some statutory provision *obliging* the Authority to require the dominant broadcaster, GBC at least, to have party political broadcasts and the rules that we have got, which used to be all in Governor's directions. Now we are repealing the Governor's directions. I am not saying anybody intends to do any of this, but we need to understand the architecture by which this will be done without anybody having the discretion not to do it.

745 I would welcome the hon. Member telling me, when he replies, whether the provisions of Schedule 2, in other words, the definition of the various disqualifications, the various disqualified persons and entities, whether the provisions of paragraph 2, 'Disqualification of religious bodies' and of paragraph – I cannot remember now. I have not made a note of it, the one about political bodies – whether that is a requirement of the Directive, or whether that is a policy choice that has been made by the Government – it is Schedule 2 on page 115 of the Bill. In other words, there appears to be a disqualification for religious bodies to own broadcasters. That may be a requirement of the Directive; I have to admit I have not checked this Bill *against* the Directive. It might be so, I do not know, but it seems odd and I frequently watch a broadcaster that is owned by a religious body. It is not everybody's taste, but it is some people's taste, so if it is a requirement of the Directive, so be it, if it is not a requirement of the Directive, but something that is just a matter of policy, then I would urge the hon. Member, perhaps, to reconsider that.

755 If I could just refer the hon. Member to paragraph 3 of Schedule 2, dealing with 'Disqualification of publicly-funded bodies', it says,

'The following persons are disqualified persons in relation to any licence granted by the Authority',

760 as amended,

'other than a licence to provide a restricted service—
(a) a body, other than the GBC, which has, in the last financial year, received more than half of its income from public funds.'

765 That is intended to capture GBC, which gets more than half of its income, but it also commits the Government to fund another broadcaster up to 49% with public funds *outside* of the statutory control that affects GBC, in terms of the GBC provisions of this Bill.

770 **Hon. Chief Minister:** Subject to licensing.

Hon. P R Caruana: Yes, but the GBC is subject to much more than licensing. There are a whole series of provisions here, which are GBC specific, in other words, all the Bill... all the sections...

775 I think it is wrong that the Government should be able to fund *up to* 49.99% of a second broadcaster with *none* of the constraints under which GBC is required to operate, because it gets 50.01% of its funding. The hon. Member will see that this provision is seriously open to abuse by any Government – and I do not suggest that theirs is such – but any Government that wanted to circumvent the GBC constraints could easily do it by funding somebody else up to just one decimal of one percentage point less than 50%.

780 Then, of course, having done that, having funded somebody to 49.99%, this fictitious Government – which, of course, does not yet exist, that might be tempted to do this – then has paragraph 4 to assist it:

'A person is a disqualified person in relation to a licence granted by the Authority if in its opinion –
(a) any relevant body is, by the giving of financial assistance or otherwise, exerting influence over the activities of that person...'

785 Mr Speaker, the reason why GBC is subject to the statutory control that it is, is precisely because the funder, the Government, would otherwise be able to exert influence, so you have an anti-influence provision in paragraph 4 followed immediately by something that allows the Government to put 49.99% finance and then argue that it is not influencing it. If it is not influencing it, then free GBC as well –
790 which, of course, I am not recommending! I think that what needs changing is 3(a), because a body that requires slightly less than half of its funding from the Government is in the same *category* as GBC and should not be allowed to operate outside of the sort of statutory framework that GBC – for that very reason – is required to operate.

795 I do not know, Mr Speaker... I know that the rules in England about when a newspaper can own a broadcaster and when a broadcaster can own a newspaper are very complicated and are constantly changing and I do not profess to understand them or know what they are, but reading paragraph 6 of Schedule 2, it says

800 'A licence may not be granted to a body corporate which is, or is connected with, the proprietor of a newspaper published in Gibraltar if the Authority determines'

– delete 'in consultation with the Minister' –

805 'that in all the circumstances the holding of the licence by that body corporate could be expected to operate against the public interest.'

810 The question that this begs, apart from the substantive question of how and to what extent this is justified is... Having said that a broadcasting licence cannot be given to the proprietor of a newspaper, what restriction is there – 'No, don't tempt me. I had not thought of that, so don't put naughty ideas in my mind!' – what is to stop a broadcaster having a newspaper? If a broadcaster establishes a newspaper, do they forfeit their broadcasting licence, because they would not be able to get one if they had it... there is no provision here for that. So there seems to be a prohibition against somebody who owns a newspaper being granted a broadcasting licence, but no prohibition against somebody who already *has* a broadcasting licence acquiring or establishing a newspaper, which results in exactly the same thing –
815 the same entity controlling both an audiovisual and a written medium.

820 It just does not seem logical. This whole area, I think, is too simplistically dealt with in five or six lines. I suspect that the UK provisions, which may not derive from the Directive – they may be policy of the UK Government, in terms of their broadcasting policy – I am sure are much more complicated than this. But anyway, I just make that point. I think, in this day and age of multimedia, in this day and age of... Look, if it is a Directive requirement, then there is nothing for us to debate in this House, but if it is not a Directive requirement, or there is more wiggle room in the Directive, in this age of multimedia, it just seems to keep these strict lines. It seems... I think you are about to be given the answer, which I will be interested to hear.

Mr Speaker, I think my final point relates to the 'Due impartiality and undue prominence' in Schedule

825 3. It says, in subsection 2.(1) – paragraph 2.(1):

‘The code of practice shall require that television and radio services shall exclude all expressions of the views or opinions of the person providing the services on any of the following matters–’

830 political, public policy etc. That is consistent with the one that we spoke about a few moments ago. But then sub-paragraph (3) says:

‘The requirements specified in sub-paragraph (1)’

835 – which is the one that I have just read,

‘may be satisfied by being satisfied in relation to a series of programmes taken as a whole.’

840 Now, that is nonsense. How does that read with (1)? If you cannot, in a programme, express... if the service provider cannot express his opinion, how can (3) then say that that requirement not to express an opinion is satisfied taking a series of programmes...? That is the language – taking a series of programmes as a whole – is about *balance* of coverage. It is not about *prohibitions* of even one example of an event. What is a broadcaster supposed to do to ensure that they do not express an opinion over a series of programmes? I suppose they would have to express *one* view in one programme and a *contrary* view, both of their own, mind you, and a contrary view in another programme. I think it just does not work.

845 If it is an absolute prohibition, it is an absolute prohibition and (3) must relate to something other than sub-paragraph (1) because sub-paragraph (1) does not lend itself to ‘over a certain number of programmes’ balance, it is an absolute prohibition to do it even once: it is not a question of balance.

850 Mr Speaker, I hope that the hon. Member will take as many as possible of my observations on board in the spirit in which they are intended, which is without partisan political hostility. It is an important piece of legislation and we need to get it right. If anything I have said, in his view, warrants more careful consideration then, after which, they may disagree with me, that is fine. That is their prerogative.

855 I would urge them not to rush the Committee Stage of this Bill – I do not know what sort of pressure they are under in terms of the infractions timetable. I remember there were issues about that that I recall in my day. I think you might have negotiated an extension which may be up, or coming up, I don’t know. I remember things of that sort. I do not know if this is the Bill in question. Maybe. But if the hon. Members can sustain a degree of delay in the completion of the legislative passage of this Bill through this House I think that they...

860 If I was making a whole series of partisan points of great political relevance, they may be tempted to resist them just for that reason. This is not such a case and, therefore, I hope that they will take advantage of the considerable effort that I have put into these assessments for the benefit of the quality of [*Inaudible*].

865 **Mr Speaker:** Does any other hon. Member wish to speak on the general principles and merits of the Bill?

Does the mover of the Bill wish to reply?

870 **Hon. Chief Minister:** Mr Speaker, can I thank the hon. Gentleman for the analysis that he has done of the draft of the Bill that is before the House and take him through what I think are the arguments that actually should persuade him that many of the issues that he has raised have been considered and can be dealt with in the general body of what is the Bill today and invite him, perhaps, in some instances where he is not satisfied, to move minor amendments of the nature which he might glean from my intervention during the course of the Committee stage today.

875 Mr Speaker, I am grateful to the hon. Gentleman for alerting me to the existence of this letter. Certainly, it was always in my contemplation that the appointment of the Board of GBC – certainly since I have been sentient politically – is a matter that has been in the hands of the Chief Minister of Gibraltar and that the Governor has acted in accordance with the advice from the Chief Minister. When I presented that to the House, I used the words ‘in consultation with’ but I accept that it is that sort of consultation that leads to the Governor doing exactly what is proposed to him. The formula of words is the advice formula of words and that is exactly how it has been handled and right that it should have been, when we had the concept of ‘defined domestic matters’ and broadcasting was a ‘defined domestic matter’, let alone now when that balance is now reversed.

880 But I must say to him, Mr Speaker, that he will recall that one of the points that we took in respect of the review of the GBC, which they commissioned of Mr King, who is presently the Chief Executive, and of which they published a summary and we were committed to publish the whole Report – which we did

885 do within days of being elected by our *fine* majority, by our *fine* majority, with one highlight deletion in

order to avoid identifying a particular individual in respect of an illness.

890 The one point I did take at the time, Mr Speaker, was to say that I believe that any review of GBC should also review how the Board was appointed and I made the point, at the time of the review initially, at the time that I spoke in the Budget debate after that and I think he may recall, if he follows my interventions on Newswatch when I spoke on the publication of this Bill, that I was not actually happy that the position in respect of the appointment of members of the Board of GBC was *exclusively* in the control of the Government – because then it was the Governor on the advice of the Chief Minister, in effect.

895 What I have sought to do, Mr Speaker, in this Act is to create a regime not dissimilar to regimes like appointment of yourself, Mr Speaker. A more constitutionally important responsibility for a Chief Minister there probably isn't the appointment of Mr Speaker – and other office holders, like the Mayor – where the wording of 'consultation with the Leader of the Opposition' has traditionally been the language of involving Members of the Parliament in some way through their respective leaders in this place, in the manner of appointments.

900 He will know, Mr Speaker, that in the time that he was in my Chair, consultation meant what it meant to him, namely that he would advise (*Interjection by Hon. P R Caruana*) who he had considered was appropriate and, put it this way, I cannot think of one occasion where either it was put to him that he should have appointed somebody else or where, if it was put to him that he should have appointed someone else, that he was persuaded with the views of a Leader of the Opposition to not appoint his original proponee and appoint somebody else.

905 Mr Speaker, I actually think this is a *huge* step forward, consulting the Leader of the Opposition in respect of the appointment of the Board of GBC, when the Board of GBC would actually be much less important than it is today, is a huge step forward than simply the Chief Minister deciding *who* should be on the Board of GBC, when the Board of GBC has been responsible for editorial control in respect of content etc. I will give way to him when I finish the point...

910 Mr Speaker, I think that if we are going to follow the model – and he sees that this is actually what we are proposing – of public service broadcasting *à la* BBC, in some way, then it is important that we do not stay on the ground we were on before, which is that the Chief Minister makes up his mind and either signs the *Gazette* himself or asks the Governor to gazette those names. It would be a foolish Chief Minister who was simply to propose to the Leader of the Opposition, in consultation, names of his political devotees to take control of the public service broadcaster. I put it to him, Mr Speaker, that there have been instances in the past where we have not been convinced that that has not been the case. He recognised that in the course of his intervention, where he said that we might have felt, in some instances, two in particular that he will recall from controversy in his days – and, if wishes to be reminded, it is reporters attending the Committee of 24 when the Chief Minister of the day decided not to attend, although they had previously attended, and issues related to the referendum on the new Constitution, that the Board of the GBC then responsible for editorial control etc etc had not satisfied those who were concerned at their decisions... of their political impartiality.

915 So I want to take a step forward in this legislation and *include* the process of consultation with the Leader of the Opposition in respect of the appointment of a Board of GBC, which will now really just regulate the GBC, *inter se*, itself, but will have an *outside* regulator determining the issues as to right of reply, editorial content of news etc, etc – although I will come to the points that he makes about that later on in the Bill.

920 For that reason, Mr Speaker, I think this is a *huge* step forward that opens up the process of the appointment of the Board of GBC. Previously, the Leader of the Opposition would have found out, when he read the *Gazette* or saw it in a press release from the Government, that individuals had been appointed. Now the Leader of the Opposition will be consulted by the Chief Minister and, therefore, Mr Speaker, I can only say that, in the context of modernising the GBC, this is not what the Bill is about only. The Bill is about broadcasting generally but, in respect of the GBC, this is a huge step forward and I think it is ungenerous of the hon. Member to say that consultation is not really any step towards transparency. I think it must be seen by any *objective* observer to be real transparency.

925 Could there be more by seeking consent of the Leader of the Opposition? Well, of course, there could be more. One might, in another political system, even seek unanimity across the floor of a Parliament for appointment. That may be possible. In the Government's judgement, Mr Speaker, having lived through sixteen years of the hon. Gentleman's Government in respect of such appointments, where he has appointed, I would have thought, about four or five of the Boards of GBC, having found out who was on the Board of GBC periodically in *Gazettes* and in press releases, we think this is actually, for the reasons I have said, a huge step forward.

930 I give way to the hon. Gentleman on this point.

935 **Hon. P R Caruana** Obligated. Mr Speaker, I think the hon. Member... First of all, let me hasten to say that I think it would be a nonsense to require unanimity or *consent* from the Opposition because, then, the

950 Opposition could hold the Government to ransom and say ‘Unless you appoint the person I want I will never consent to anybody that you suggest’. Requiring the Opposition’s consent to something is equivalent to transferring the power of appointment to the Opposition. That would be absurd and no reasonable, responsible Opposition could have that aspiration.

955 By the same token, I think that the hon. Member is confusing consultation with transparency. If picking up the phone and saying ‘Peter, I am thinking of appointing Jo Bloggs to be the Chairman of GBC. What do you think?’ and keeping me on the phone for a minute, perhaps, listening to my views and then putting them down and my not knowing whether he was going to do anything with them or not, which is what ‘consultation’ means... There is no point in pretending that ‘consultation’ is capable of meaning anything more than it means in the English language and I would be careful about signalling to others that you think that ‘consultation’ is capable of meaning anything else because they will use it against you in those areas where they have the right to be consulted.

960 The hon. Member has presented this publicly not as a step forward but as transparency. Transparency means that you can see it; it means that a decision making process is *accountable*. That is transparency and that is not delivered by *consulting* the Leader of the Opposition in a non-binding way, for example not requiring the Opposition’s consent, obviously, but one form which *would* be a *big* step forward in transparency in the appointment of the GBC Board, if a big step in transparency is the policy objective that the hon. Members have set themselves, which would be laudable, but then they have got to deliver things that amount to that... Something that would amount to that would be, for example, that the nominees of the Chief Minister should have to be brought to this House and be subject to approval by a majority motion. You are not transferring to us any power of appointment, because you have got the majority; what you are doing is exposing yourselves to having to justify the balance of your appointment and that would be transparency.

970 If the hon. Members want transparency... *They* said it; I didn’t. We did not have transparency on the appointment... No, Mr Speaker, I am not saying that they are *required* to have transparency. I am saying that if they are telling the people of Gibraltar that this is in order to deliver *transparency* in the appointment, is what *they* have set themselves out as their goal, then they have got to deliver a mechanism which delivers visibility to the appointments. The way that visibility to appointment... is by having to come to this House, in the knowledge that they can appoint whoever they want, because they have got the majority in this House. So there is no transfer, there is no mortgaging yourself to the views of the Opposition but, of course, it is *visible* because, then, the Opposition can say what it feels about this appointment and you will counteract it: there is not the need for agreement but transparency. People can see what the Government is doing and know why the Government is doing it.

980 In my view, that would be a *genuine* act of injecting transparency into the view of GBC. I do not say to them, do it; I say to them, do it if it is your policy to have transparency on the appointment of the GBC Board, because what you are offering now in this Bill is *not* the transparency on the appointment of the GBC Board. Consulting the Leader of the Opposition in private is not a transparency; it is something else. I am not saying it is valueless, I am not saying it is nothing, I am not saying it is not a step forward in another direction, but it is *not any* degree of step forward in transparency, meaning visibility, to the community at large in what the Government is...

990 That is my point, but if the hon. Members do not want transparency... Look, if I had thought that there *should* be more transparency, I had 15½ years to do it and I did not, so I can hardly now sit here demanding of the hon. Member to do things that I did not do in 15½ years of opportunity to do so. So he must not misunderstand where I am coming from on this.

995 **Hon. Chief Minister:** Mr Speaker, that is a very useful aid to what the hon. Gentleman considers the definition of ‘consultation’ to be, which perhaps we may have to remind his Opposition colleagues of on occasion.

1000 Mr Speaker, we actually disagree. We think that this *is* a much more transparent process because the definition of transparency that he now adopts we do not think is the only definition of transparency. One is transparent if one consults with the Leader of the Opposition and then announces to the community who the individuals to be appointed to the GBC are. Of course, they would always be announced to the community either by the Governor in the *Gazette* under the old model, or by the Chief Minister in the *Gazette* under this model.

1005 Mr Speaker, the hon. Gentleman seems to forget – a point, perhaps, to consider why it is that Question Times take so long – what are the privileges of Members of this House. The hon. Member can bring a motion at any time, after he has read in the *Gazette* the names of the people appointed by the Government, and say that he does not believe that those names reflect an independent Board for GBC, or whatever he likes, and we can have the debate in the House and we can then vote with such numbers as one may be able to muster in this House one way or the other. So that is in-built in the system, Mr Speaker. We believe that there is, therefore, now greater of what *we* call transparency than there was before, but I am grateful the hon. Gentleman recognises that he did not do this and that he cannot,

therefore, be urging us to go forward, and that he must simply be analysing what it is that we are doing and trying to adopt his own definitions of what is transparency and consultation and apply them to our process. We do not accept those definitions. We believe that this is a more transparent process, for the reasons I have already indicated.

1015 Mr Speaker, neither do I accept the proposition of the hon. Gentleman that this Bill does *anything* to bring the Authority – the Gibraltar Regulatory Authority, as defined under the Bill – under the tutelage of the Minister. I know the hon. Gentleman will know that I found a Bill, in not too dissimilar terms to the one which I am now moving, ready for publication when I was elected, and this was an issue that was already, as the hon. Gentleman has indicated, something put to him and that there are Directive timetables which are applicable and which had been extended. He will know, Mr Speaker, from having looked at *that* draft, which gave the Minister many more instances of power, that this Bill, as published, let alone as now to be amended, gives to the Authority almost all of the powers that there were under the Bill and retains to the Minister very, very few, and that has been the process that I have intended to deliver in the course of publishing this Bill.

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1025 Mr Speaker, it is true that the hon. Gentleman and Members and lady opposite have not had sufficient time, in my view, to consider the amendments to this Bill, but they will now have seen – and I think the hon. Gentleman’s reading of it indicates – that they are principally technical because of legal advice resulting from the need to deal with what is known as the AVMS Directive in a particular way.

1030 **Hon. P R Caruana:** Mr Speaker, if the Hon. Minister will allow me to say –

Hon. Chief Minister: If I may –

1035 **Hon. P R Caruana:** We can skip this part. We have made a comment. He need not concern himself, except for me to just record...

I am not asking him to delay the Bill for this reason on this occasion, simply to bear it in mind for similar situations in the future, except to comment that the amendments are ‘principally technical’ suggests that this House does not have a legislative function in respect of merely technical provisions, (**Hon. Chief Minister:** Absolutely.) which is not the case, (**Hon. Chief Minister:** Absolutely.) even if they are only technical.

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1045 **Hon. Chief Minister:** Yes, indeed, and Mr Speaker, the hon. Gentleman will allow me to say that the technical aspects of the amendments are not to make a new law for Gibraltar – they take something that was in regulations and put it in the principal Act. (*Interjection by Hon. P R Caruana*) As long as he takes me on my word at that, then he will understand that the amendments are for a purpose.

1050 Mr Speaker, I actually believe that hon. Members *should* have longer to consider amendments and it is only for technical reasons, if he will accept that, for legal advice reasons, that I have been put in a position where I have given them long amendments in this situation. He will know that he had done that before and that, in some instances, we accepted that and in some instances we were critical. (*Interjection by Hon. P R Caruana*) Well, it may be, Mr Speaker, but only in the attempt to make the letter as clear as possible and not simply... The hon. Gentleman will recognise that the letter does not simply refer to the changes to be made; it actually gives them the logic of the amendment to be made so that they could understand the amendment.

1055 **Hon. P R Caruana:** For the future, if the hon. Member ever finds himself in this position again with a need to thrust upon us lengthy amendments at the last minute – and there may well be other examples when he is up against a deadline he has no choice – it is much more helpful to be sent a marked-up copy of the Bill than it is to... (**Hon. D A Feetham:** Tracked.) a tracked copy of the Bill, rather than to be sent the letter, which then requires you to do your own... Sorry?

1060 **Hon. Chief Minister:** I thought he had been sent both.

Hon. P R Caruana: I have only seen... I do not know whether we have been sent it or not... I have only seen the letter.

1065 No. We are not making an issue, except an observation we are making on this occasion. This is for the future.

1070 **Hon. Chief Minister:** I am grateful, Mr Speaker.
If I could now move on to the substance, Mr Speaker, of what it is that the hon. Gentleman has said. We are advised that this Bill, as drafted, this Bill, as now marked up and amended, has no effect on what the hon. Gentleman called ‘satellite clubs’, and that some of what we are taking out to do by regulation might have in the future. Of course, Mr Speaker, that is an issue to look at very carefully.

Mr Speaker, clause 3.(2) of the –

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A Member: [*Inaudible*].

Hon. Chief Minister: Liverpool Football Club supporters don't tend to watch football much these days, Mr Speaker. It is a sad time for us!

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Mr Speaker, clause 3(2) we do not accept renders nugatory everything that is set out in the Act. I think he will find, Mr Speaker, for reasons I will come to now, that that is actually the sort of language that is in Acts and Bills *he* moved in this House and it is there for a purpose. It is for the purpose of giving business efficacy to what it is that Ministers do.

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I recall him saying to me, Mr Speaker, on many occasions, that one had to accept that Ministers would act in good faith and not seek to use powers like this for any purpose other than for the purpose given, which is what the preamble of the legislation provides. So, Mr Speaker, I used to reluctantly take him at his word, so I hope that he does take us at ours.

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I do not think, Mr Speaker, that the interaction of clauses 6 and 7 actually render the whole thing tautologous or circular, in particular, Mr Speaker, because clause 8.(1) of the Bill talks about 'disclosure', not 'publication'. So it is the disclosure to the Minister, not the publication that is the issue.

If he wants to just look at that, it is about 'disclosure', not 'publication'. So, Mr Speaker, we do not actually think that that deals with the –

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Hon. P R Caruana: No, Mr Speaker, if he will give way, it is true that one clause speaks of publication... collection of information, and the other one speaks of disclosure, but the clause that speaks of disclosure does not speak of disclosure to the Minister, it speaks of disclosure at large, and disclosure at large is publication.

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If the clause said 'to the Minister', then at least you would be limiting the circularity, but sub-clause 8.(1) is disclosure to the world, not disclosure to the Minister. It does not say the Minister. Where does it say the Minister?

Hon. Chief Minister: Mr Speaker, it says it in 8.(2)(a).

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Hon. P R Caruana: Yes, Mr Speaker, but that is only in respect of (a).
Mr Speaker, I think he is misreading it.

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Hon. Chief Minister: If the hon. Member will allow me, there is absolutely no intention to take information from operators and create a regime which carves out a part of the Data Protection Act and allows somebody to publish information which might otherwise be sensitive. (*Interjection by Hon. P R Caruana*)

There is a list, Mr Speaker, in 8.(2) for purposes (a), (b), (c), (d) and (e), of which the disclosure can be used, and therefore we do not believe (**Hon. P R Caruana:** No.) that the point makes sense. If he is ever instructed to deal with this matter in court, he can put that side of the argument. We are just not persuaded that the point he makes bites.

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Now, Mr Speaker, if I can –

Hon. P R Caruana: Mr Speaker, [*inaudible*] to correct him if the hon. Member will give way.

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Hon. Chief Minister: Does he want me to give way?

Hon. P R Caruana: Mr Speaker, if it is his position that he does not *mind* the position that this creates, then of course I bow to his majority, but he started by saying that that was not his intention. It was not his intention to create a general power.

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If he will just give me one more hearing of 30 seconds on this, 8.(1) places no restriction on who you can disclose to. 8.(2) says... or, rather, it says that you cannot disclose, 8.(2) says sub-clause (1) –

Hon. Chief Minister: Does not apply.

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Hon. P R Caruana: – does not apply – to what? It does not apply to the list to which he has just referred. Amongst the things that it does not apply to, the first item of it, (a), so you can disclose to the world in the five instances in the list in (2), amongst them:

'(a) for the purpose of facilitating the performance of any duties or functions assigned to or conferred on the Minister or the Authority by or under this Act;'

1135 **Hon. Chief Minister:** Yes.

Hon. P R Caruana: As that is the sole purpose for which information can be obtained in the first place under clause 6, then you can always disclose *all* the information that can lawfully have been demanded under clause 6, because if under –

1140 **Hon. Chief Minister:** That is only – if you will allow me to complete his sentence –

Hon. P R Caruana: Of course, I –

1145 **Hon. Chief Minister:** – for the purpose of facilitating the performance of duties or functions –

Hon. P R Caruana: Which is always. That is always.

1150 **Hon. Chief Minister:** – which, Mr Speaker, will not *always* mean publication to the world, because – listen, Mr Speaker, and I will come to this point later on – there is, whether the hon. Gentleman likes it or not, a different sort of appeal possible and challenge possible in respect of actions done under this Act, or otherwise by a Minister, which is judicial review. Therefore, Mr Speaker, if a Minister were to publish something to the world, when all he needed to do was discuss it with the Authority, then it would be unreasonable to have done so and, in particular, if the person whose information is disclosed has suffered damage. So, Mr Speaker –

1155 **Hon. P R Caruana:** I am not concerned about the Minister; I am concerned about the Authority.

1160 **Hon. Chief Minister:** Fair enough. (*Laughter*) The Authority is subject to the same control.

Hon. P R Caruana: No, he is not.

1165 **Hon. Chief Minister:** Of course he is, Mr Speaker, because what the hon. Gentleman has to accept – and I will come to this later on – is that, although there are statutory rights of appeals only for the purposes set out in the Act – *statutory* rights of appeal with leave – there is always, and he will remember this from his time in practice, that he is now back at, always the right of judicial review, especially if somebody acts unreasonably.

1170 **Hon. P R Caruana:** But does he accept that that right – and I agree with what he has just said – that is *despite* the Bill, because the Bill tries to prevent it.

Hon. Chief Minister: No.

1175 **Hon. P R Caruana:** The Bill says, you will not challenge *any* exercise of authority by the Authority under this Act, *except* by an appeal under clause 67.

Hon. Chief Minister: No, Mr Speaker, for the reasons that I will come to, when I deal specifically with that, (*Interjection by Hon. P R Caruana*) but that is not the case.

1180 **Hon. P R Caruana:** I give way.

Hon. Chief Minister: I cannot give way; I gave way to you!

1185 **Hon. P R Caruana:** No, no, no – ‘we’.

Hon. Chief Minister: Anyway, Mr Speaker, we are not persuaded of that.

1190 Mr Speaker, the hon. Gentleman also referred us to clause 9 and I believe he said he was very concerned about this. Was it *this* clause that he said caused him to have constitutional concern? This clause gives the Minister power to make particular regulations and the way that it sets out the power to make particular regulations, I need to tell him, is very similar, if not identical, to section 69.(2) of the Transport Act, which gave the Minister for Transport general regulation-making powers, including the power to fix the penalties for the breaches of the regulations that he made. He will recall that members of a certain association with very loud whistles made their way around No. 6 Convent Place for some time complaining in part about that.

1195 That Act survived and that section survived and that regulation-making power survived, but, before I give way – and I will, Mr Speaker – let me tell the hon. Gentleman that this section is not just *similar* to

section 69.(2) of the Transport Act, not just similar to that, it is actually identical to section 9.(1) of the Communications Act 2006 that he brought to this House. It is identical, Mr Speaker.

1200 When I talk about the other sections that he has referred to, where he has expressed some concern, in particular about the creation of a new regulatory framework, I am going to be telling him repeatedly that, actually, we accept that a regulatory-style framework has been established. There is no need, as he said, to reinvent the wheel and a lot of what we are doing here is to take, word for word, the sections that *he*
1205 brought to this House in the Communications Act 2006. So we do not think that there was unconstitutionality in *that* Act: we did not raise the point in 2006 at the time. Therefore, Mr Speaker, if there was no unconstitutionality in the Communications Act that the hon. Gentleman brought to this House in its section 9, there cannot be – because *I* move it – an unconstitutionality here, but I recognise the hon. Gentleman has asked me to give way.

1210 **Hon. P R Caruana:** Of course not, Mr Speaker. Of course the hon. Member is right that what I do cannot be constitutional and if he does the same thing it is unconstitutional, I have not suggested that.

Mr Speaker, I am saying two things to him. Firstly, in respect of his point, I specifically said that I had seen many examples and there is nothing wrong, if you create an offence by regulations, then you have to create the penalty by regulations. That is not what I was complaining about. I made that perfectly clear, I made that distinction perfectly clear. What I am complaining about is that the offences and the rights of
1215 penalty establishment created not by the regulations, but by this Act *itself* is establishable later by regulations.

Sub-clause 9.(1)(b) reads:

1220 ‘The procedure and principles for the imposition of financial penalties on a person who fails to comply with an obligation imposed on that person under, or pursuant to, *this Act*...’

not regulations. Of course, any statutory regime created by regulations will contain the penalties of the regulations. The objection *here* is that where ‘offences’ – in inverted commas, because they are, if it is penalties – against the regulatory regime is created by *this Act*, the offences are not created by this Act, they are postponed – the penalties are postponed – to be created.
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I believe that that is wrong. Now, Mr Speaker, is no answer, it is not even a matter of embarrassment to me, that I may have done the same thing 25 times. I regret that nobody pointed it out to me, because if the Opposition had pointed it out to me at the time – and this is not a criticism aimed at them – if the Opposition or anybody else had pointed it out to me, he could be very sure that I would *never* have agreed to legislate it. Of course, he knows how these things work. A lengthy piece of legislation gets brought to the hon. Members by others and if nobody raises an objection, you are too busy to stop them for yourself. Now he is having them pointed out to him. Well, I wish somebody... I wish he had pointed it out to me when I was legislating it. The fact that we – because it was not pointed out to us – did something that we could otherwise agree is not desirable, does not become okay simply by saying ‘but you did it as well!’
1230 Otherwise what is the purpose of us being in this House? So everything that has gone on in the past, whether intentionally, unintentionally, whether by consciously or simply because no-one had addressed their minds to it – *anything* that we have done in the past is now legitimised for all time in the future.

Mr Speaker, I do not think that that is appropriate. If it would help the hon. Member give this point a little bit more seriousness, if I concede to him that I deeply regret having allowed such legislation to get onto the statute book in my time and if he will move amendments to it now, I will gladly vote in favour of those amendments in all the bits of legislation... if that sort of – I don’t know – will assist him in giving this matter objective consideration, not by reference to whether I have done it myself in the past, but whether it is right or wrong in principle, I would gladly do that.
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1245 **Hon. Chief Minister:** Mr Speaker, I might be prepared to accept that in respect of the Communications Act, where he rightly points out that I have accepted we did not raise the issue. I said, we did not raise this issue in the Communications Act.

He cannot say that in the context of section 69.(2) of the Transport Act because, as I told him, the GTA were happily deployed around his office, I attended a meeting there myself, there was much opposition to it, he was told that what he was doing was unconstitutional, and plough on he did regardless, Mr Speaker, and section 69.(2) of the Transport Act says:
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1255 ‘Regulations made under this section may provide for such offences and for such penalties as may reasonably be appropriate in the circumstances’,

and that is what we were pointing out to him, whistles and all, (*Interjection by Hon. P R Caruana*) around No. 6 Convent Place in 1998.

1260 **Hon. P R Caruana:** Will he give way?

Does he not understand that that is wholly different to what I am pointing out to him now? I cannot think of words in which to articulate my point more clearly, so clearly my powers of articulation are deficient –

1265 **Hon. Chief Minister:** Rusty!

Hon. P R Caruana: Mr Speaker, I am not complaining.

1270 There is nothing objectionable to the section 69 of the Transport Act, because that is regulations creating an offence and also creating the penalties attaching to breach of the regulations of the offences created in the regulations. That is *not* what I am talking about here. What I am talking about *here* is not regulations that create both the offence and the penalty, what I am talking about here is ‘offences’ – in inverted commas – created by the Act, where the Act does not also create the penalty, so you have an offence created by an Act and the penalty created by the subsidiary legislation *later*. This parliament is entitled to know before it passes an offence, what the nature of the penalty that is going to attach to that offence, because it is completely germane to the reasonableness of the offence.

1275 He is not comparing the point that I am making with anything that may arise from the Transport Act. He is right to compare the point I am making with the Communications Act, if he says – and I am taking him at his words – that the Communications Act also creates offences in the Act, but not penalties. The penalties are left silent in the Act and the penalties only are created later after the Act. That is not my recollection of it, but my recollection of it is not strong enough to contradict him. That would be a comparison with the point I am making.

1280 Just a point of repetition, Mr Speaker, he knows my views... I cannot do better –

Hon. Chief Minister: Mr Speaker, let it be clear in *Hansard* that none of us believe, or wish, to act in a manner that is unconstitutional and neither do we believe that the provisions in this Act, as they stand –

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Hon. P R Caruana: Mr Speaker, I have not said that –

Hon. Chief Minister: It is 20, is it not? Later on...

1290 This act is drafted something like... [*Inaudible*] Neither do we believe that there is anything in the way that this is drafted which creates any hostage to fortune in that way. The hon. Gentleman has said what he has said and that is our position in respect of that section.

1295 Mr Speaker, clause 20, which the hon. Gentleman referred us to, deals with the financial penalties: the right to appeal in respect of those penalties. Our view, Mr Speaker, is that there is *always* a right to challenge a penalty, even if there is not a specific statutory right of appeal against that penalty. That is often the position in much of our laws. It is not unusual that, in some instances, there should not be a particular statutory right of appeal and that the right of appeal should be left to judicial review.

1300 I have made the point already that I do not accept that judicial review is excluded by the way this Bill is drafted. Therefore, we do not share the concern that the hon. Gentleman seems to suggest there could be, but if it is helpful to the hon. Gentleman, I am quite happy to agree to an amendment, if he wishes to move it, to bring within the provisions of statutory appeal anything to do with the financial penalties imposed. I think nothing turns on it, I have not got the concerns that *he* has got about it, but I am prepared, if he wishes to move an amendment – which is a very simple one – to consider it with him in committee.

1305 **Hon. P R Caruana:** I am grateful to the hon. Member for offering –

Mr Speaker: [*Inaudible*] it is...

1310 **Hon. P R Caruana:** I beg your pardon, I thought he had sat down.

I am grateful to the hon. Member for his generosity of conceding an unnecessary amendment. I really do not know where the hon. Member, when he says, ‘We have considered’ presumably he means *he* has considered on the hoof, because I just made the point and I have not seen any evidence of consideration by anybody other than him.

1315 But, Mr Speaker, that is not the point. The point is this: he has said there are other instances in our legislation where there is a public authority entitled to impose a financial penalty without a specific statutory right of appeal. I tell him that he is *absolutely wrong* and that there is not a single other instance in our statutes where there is a right to fine somebody without a specifically granted right of appeal. Simply to say – even though they have tried to avoid it – that you can have judicial review, he must know is not an alternative, because on judicial review you cannot challenge the *quantum* of a fine, you can challenge the reasonableness of the decision-making process that led to the fixing of a fine, but if you are

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fined £100,000, you cannot judicially review it because you think the fine is excessive and it should only have been £20,000! There is a difference; surely he will understand that the principles and the procedures of judicial review exist for different purposes in courts and in the law, than the processes of appeal against the decision.

1325 Mr Speaker, I do not want to convert Parliament into a moot forum between lawyers, but he has made a statement, which is factually incorrect: there is not another statute on our statute book which creates a right to fine somebody a financial penalty. The Financial Services Commissioner does not enjoy a right of financial penalty *at all* in the area of financial services regulation. Where there is a right of penalty, there is necessarily a right of appeal.

1330 Again, Mr Speaker, his last intervention, I think, is some evidence of the fact that he feels the need to defend this draft, this Bill, despite the fact that I am not subjecting it to political attack. If he is going to concede the objection, the concession, what impedes him from simply saying, ‘Yes, we agree that there should be that amendment. No, we think the hon. Member is wrong. We think there is absolutely no need for the amendment. We do not think it is necessary, but we are going to write a Bill, because he has asked us to, that gives a statutory right of appeal for the imposition of a penalty.’

1335 I am glad that he has done it, I am grateful to him for taking the point, but it is the way he has conceded the point does not signal to me – not that he is obliged to view my comments in this light... that these are not political attacks and he should not feel that he has to defend the drafting in terms of our debate across the floor.

1340 If I had had more time, I might have written to him privately about some of these points.

Hon. Chief Minister: Mr Speaker, he does not accept *my* view on what our *corpus juris* covers and I do not accept his, so one of us is going to have to spend a long time going through a few thousand Acts. (Interjection by Hon. P R Caruana) (Laughter) But look, Mr Speaker, we have considered it, even though he has not seen me confer with others, because obviously I, with others, have sat and looked at this Bill and ensured that we are satisfied with the provisions as they are. We have not considered it in the context of what he has said, but everything that I have considered with others before. Therefore, we... leads me to believe that I should not share the concerns that he now puts, but Mr Speaker, as I told him, it is something that can be cured if he wishes to move the amendment.

1350 Mr Speaker, the codes of practice that are dealt with in clause 22 we believe can be challenged, if they are in some way unreasonable in the hands of the Authority that will make them, by way of judicial review, and he is going to get that answer in many respects – and I am not going to give way, Mr Speaker, because at some stage we have to finish the debate.

1355 **Hon. P R Caruana:** [Inaudible] speak, because I have seen the mood he is in!

Hon. Chief Minister: Mr Speaker –

1360 **Minister for Tourism, Public Transport and the Port (Hon. N F Costa):** He has given way a thousand times! (Interjections)

Mr Speaker: Order!

1365 **Hon. N F Costa:** [Inaudible] give way!

Mr Speaker: Order!

1370 **Hon. Chief Minister:** I am in no mood other than in the mood to get to the bottom of the points that the hon. Gentleman has made for the good of our legislation, but I actually do not believe, Mr Speaker, that the point made in respect of clause 22 is a valid one. It is actually an identical position to the position in the United Kingdom as to the way that codes are produced, and there is the ability to challenge the code in the hands of the Authority by way of judicial review if it is in any way unreasonable.

1375 Mr Speaker, similarly, the duties of broadcasters under clause 24. It was the hon. Gentleman who said ‘This cannot apply to Mr Paxman’, and yet it is verbatim what applies to Mr Paxman. So I am not uncomfortable with a piece of legislation that allows a broadcaster the leeway that Mr Paxman enjoys to scrutinise the current affairs of the United Kingdom. I am actually very welcoming of that sort of regulation now for those in our broadcasting, public or otherwise.

1380 Mr Speaker, on clause 37, which he referred us to in respect of the exclusivity of major events, I think we have already had the debate, because he gave way whilst he was speaking. We read the provision, Mr Speaker, as meaning that there will not be exclusivity for one individual broadcaster or licensee in respect of events, and that ‘shall make available’ shall not mean pushed down the throats of viewers. It means shall make available to other licensees so that they are able, Mr Speaker, to also relay a transmission of a

particular event. The word ‘must’, Mr Speaker, is not in those sections, as far as I can see.

1385 The hon. Gentleman says, ‘Well, it means that they must.’ Well, shall means must, but the word
 ‘must’ is not here, but it is ‘shall make available’, not shall transmit, which is the damage that the hon.
 Gentleman was trying to cure. If this said ‘shall transmit’ and ‘must allow or make available to other
 1390 broadcasters’, you might read what the hon. Gentleman wants to read in it, but if you actually bother to
 read the section as a whole, what it talks about is one licensee, one broadcaster who is actually there with
 his cameras, making available to others that audiovisual signal for them to put online or for them to put
 on in deferred transmission, in whole or in part. So I do not think there is any merit whatsoever to that
 particular point when you read the section as a whole, and, as I referred to the hon. Member, the reference
 there to the Commission illustrates the fact that this is a European requirement for there to be competition
 and for not one licensee or broadcaster to exclusively be able to monopolise one particular event. There
 1395 is, therefore, no question, Mr Speaker, of forcible transmission of the GSD annual meeting, if there were
 one, or of the GSLP annual general meeting, of which there is one.

Mr Speaker, in respect of the deadlines provision which the hon. Gentleman identified in respect of
 clause 39, can I tell him actually that his reaction was my reaction but, having considered it carefully,
 actually it is very difficult to either put in a regime with shorter timetables, if you are going to allow
 people to make arguments properly, *or* to create narrow regime in legislation which is more advantageous
 1400 than the reality of the libel regime.

Mr Speaker, the hon. Gentleman said one would not want to revive something 42 days after it had
 been said – you somehow sometimes make it worse. Absolutely right, and what timetables do, Mr
 Speaker, or *should* do, is set out a maximum period of time within which to do things. In the context of
 libel proceedings, 42 days is actually quite a short period of time (*Interjection by Hon. P R Caruana*)
 1405 because libel proceedings could take years. In the context, therefore, of this Act, Mr Speaker, that the
 right of reply, which is not just in terms of politics – it can be in many other terms, in terms of reputation
 etc – to be corralled into a period of 42 days actually, on reflection, is not bad. So, for that reason, Mr
 Speaker, we do not think that, if the hon. Gentleman gives thought to his criticism of clause 39, there is
 actually anything in it.

1410 But, Mr Speaker, if I can just refer him to clauses 37 and 39 in this way (*Interjection by Hon. P R
 Caruana*) before I allow him to get up, against my better judgement, clause 37 of *this* Act, of this Bill, Mr
 Speaker, and clause 39 of this Bill, are *identical* to regulation 17.(2) and regulation 30 of the Audiovisual
 Media Services Regulations, which he made. So these deadlines, these concerns, about ‘makes
 available’... Mr Speaker, I am taking the language that *his* Government made and passed in the AVMS
 1415 Regulations.

I give way, Mr Speaker.

Hon. P R Caruana: Mr Speaker, if it is against his better judgement, I withdraw.

1420 **Hon. Chief Minister:** Mr Speaker, in relation to clause 47, what I will tell him is that we are very
 happy with the way that the provision as to consultation on the appointment of the Board of GBC is now
 drafted. We think it is a step forward, as I said before, but I will come to this point, Mr Speaker, which is
 why it should be the Chief Minister and not the Minister for Justice.

1425 Mr Speaker, it should be the Chief Minister, who does not consider himself to be anything other than
 one among equals, not even first, because issues of *public* broadcasting have an importance which the
 hon. Gentleman has recognised in his intervention and, therefore, I think in the same way that it is right to
 have a Chairman of Gibtelecom who is not the Minister for Telecommunications – something that
 occurred during their time in office as a result of an issue involving the European Commission – we are
 now taking the step that the Chief Minister should be the person to appoint the Board of GBC, whether or
 1430 not he is the Minister for Broadcasting.

In the present instance, the hon. Gentleman will know, all hon. Members will know, that I am both the
 Minister for Broadcasting and Chief Minister, but that will not always be the case and the appointment of
 the Board should be something that, in my view and in my Government’s view, comes through the Chief
 1435 Minister.

Hon. P R Caruana: Not at the time that the Bill was published.

1440 **Hon. Chief Minister:** No, Mr Speaker, not at the time that the Bill was published, but as the hon.
 Gentleman will know, that is exactly what I said during the course of the interview in GBC – or should
 know, if he is going to make a criticism. I said specifically about that part that I was not happy with it, but
 that I was publishing the Bill already whilst I took further counsel as to how best to deal with that section,
 and I am going to assume, Mr Speaker, that he follows avidly everything that I tell ‘Newswatch’.

Mr Speaker, similarly, clause 62 he said gives power only to the Authority to receive complaints of
 anything broadcast by GBC. Well, Mr Speaker, in the new paradigm that we are setting up... I know he is

1445 no longer interested because I am not taking his points and demonstrating that they are not valid, but he might at least do me the courtesy of listening; I listened to every word that he said.

1450 Clause 62, Mr Speaker, of course makes the Authority the person, therefore, that receives those challenges, because it is the Authority that has the control of all the other licensees and it should also have that control in respect of the GBC, but that does not mean, Mr Speaker, that third parties cannot approach the Authority in respect of those issues for the Authority to take action and, where they do and the Authority does not, that they cannot judicially review the Authority for not having taken that action, if not to do so would be unreasonable.

1455 Mr Speaker, clause 63, he is right, is an identical reproduction of the section that is there now, and it is there now, Mr Speaker, because GBC is a public broadcaster and will remain a public broadcaster, but the hon. Gentleman knows that there are ways round those time limits that might create a problem in certain instances, not least because *he* was the only party that would not agree to GBC including in a leaders' debate in 2007 the leader of the PDP, who enjoyed the support of my party and the Liberal Party, and of all of us contesting the election, except the hon. Gentleman, to appear in that leaders' debate. That matter was brought to the Supreme Court for a hearing very quickly under judicial review procedures. So, again, 1460 we are not concerned that in issues, in moments of urgency, there is not the business efficacy in the Act, as it was and as it is, for matters to be brought to the attention of the court timelessly. Unfortunately, Mr Speaker, in that instance the PDP did not succeed in appearing on the leaders' debate. The first time they did, he lost the election, so perhaps, if they had been there in 2007, a happier time would have been had.

1465 Mr Speaker, clause 66.(1) is a serious issue and clause 41.(4)(c) is also a serious issue, so I ask the hon. Gentleman to listen carefully to this part of my reply and, as he did when I was looking for something on my phone, ask him to put down his phone, as he said to me, and listen, because this is about Gibraltar and *our* differences should not be relevant to it.

1470 I heard everything that he said about clause 66 and everything, if not *almost* everything, is a matter of agreement across the floor of the House, not just between him and me but, I am sure, every Member, but the wording of 66.(1) is *precise* and there are no typographical errors in it, and it is there black upon white. He did an analysis, Mr Speaker, of the effect of one particular case on 'colonial legislatures', as some people like to call them, during the course of an intervention at the United Nations, I believe in 2007 or 2008, I forget whether it was at the Committee of 24 or in the Fourth Committee.

1475 **Hon. P R Caruana:** It was in 2008 and in Fourth Committee.

Hon. Chief Minister: Yes, indeed.

1480 Mr Speaker, the analysis he makes and the concerns that he airs would have been absolutely right, were it not for the fact that, in 66.(1), it is the Governor who acts in a moment of internal security but it is the Government that takes the power as a result of that action. That, Mr Speaker, is in keeping with the analysis that he did in the United Nations and that, to a very great extent, he and I, and all the other lawyers in this Chamber, likely believe is the reality of the constitutional position very much in respect of all the issues that he alighted on today.

1485 He said that if I had achieved what 66.(1) says then I had achieved something more than he had been able to achieve and I am grateful for him recognising that because this is specific, clear and there are no errors in this section of the draft, believe me – as he will know – because it has been pored over by all the people who would pore over it and who would insist on rectifying that typographical error, if it *were* a typographical error. So, on that, Mr Speaker I know that we are *all* united.

1490 But I refer him, Mr Speaker, to the amended 41.(4)(c) because that is equally important. If hon. Members want to look at that section and read it *in toto*, it says this:

'subject to subsection (5), the Authority shall take a measure pursuant to subsection (2) where the following conditions are satisfied –'

1495 and the third one, Mr Speaker, which is the relevant one for national law, which is not Community law:

1500 'where the reason for the intended adoption of a measure is the safeguarding of the internal security or defence of Gibraltar and is of such a nature as to fall within the Governor's constitutional responsibilities and the Governor has informed the Minister that the measure needs to be taken who so directs the Authority'.

1505 Mr Speaker, that is exactly the issue that the hon. Gentleman was alluding to and it is in this context that the Minister, in those circumstances, alerts the Authority. The hon. Gentleman will know from his analysis, having hinted at it, the importance of the way that section is drafted because, in effect, Mr Speaker, 66.(1) and 41.(4)(c) *now demonstrate* that in a moment when internal security measures need to be taken, when the Governor triggers those parts of the Constitution, *of course* the Government is not out of the equation. The Government, as would be the Government in the United Kingdom, is the actor

through which actions continue to have to occur because, constitutionally, that could always only have been the way it was intended.

1510 There is an element here, Mr Speaker, of the prerogative being engaged: a more interesting discussion might be who can trigger that in the Governor? I hope he is listening, Mr Speaker, because this is fundamentally important. Is this that internal security matters or that trigger for the Governor to press can only be pressed when individuals with political responsibility *outside of* Gibraltar seek that the Governor engages it, or is it that even Ministers of the Crown in Gibraltar can seek that it be engaged because of information that they have. Mr Speaker, I believe that it can be both under our constitutional set up

1515 because we have no responsibility for defence and there may be a defence reason why internal security measures need to be taken. There could even be Foreign Affairs reasons why an internal security measure might be taken, but there are very many other reasons – those that are now at large – which could result in an internal security measure to be taken.

1520 This is where *his* analysis, which was the academic analysis being made already in respect of Quark at the United Nations, is relevant because, in *that* instance, I believe that the trigger that the Governor presses to engage 66.(1) or 41.(4)(c) can be engaged on the advice of Ministers – the Governor here is the Crown, the Queen – either the two whose portfolios are not in this House – Defence and Foreign Relations – or *any* of the ones who are in this House. That is a more interesting debate and I believe, Mr Speaker, that there cannot be *any other* analysis on that. I am sure that he shares my view and I am grateful that, in analysing 66.(1)(c) and 41.(4)(c), as he has, he has recognised the huge step forward we have been able to take in this short time.

1525 Now, Mr Speaker, on clause 67 which follows immediately thereafter, I have to tell him – and this comes back to the other points he has made about the right of statutory appeal – that, actually, this is also identical to the Communications Act that he made in 2006, in section 91 of the Communications Act – that are in identical terms, – 91.(7) and 91.(8) in particular, dealing with 67.(7) and 67.(8) that he particularly singled out. I do not believe that the analysis done by the draftsmen in 2006 was wrong. I know that he has a higher regard for *his* legal analysis than he has for mine but I read the Communications Act when I was sitting where he is sitting and I did not think that these points were merited. When he was sitting where I am sitting he did not think these points were merited when he presented the Communications Act to the House, so I believe that he was right then and I believe that I am right now. I believe that we voted in favour of the Communications Act in 2006, so I do not believe that the mischief he says could be there actually arises under the section at all.

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1540 Mr Speaker, the hon. Gentleman said ‘What happens in respect of party political broadcasts and the Governor’s Directions? The Governor’s Directions are there now: how can we ensure that the new regulations are going to be there in the future?’ Well, actually, the position is much more advanced than it was. The Authority – the regulator here because it is the Gibraltar Regulatory Authority – is not just going to make these Governor’s Directions his own in his own way, he has actually got an *obligation* to do so and I think the hon. Gentleman has missed it. It is in clause 22 that the Codes of Practice have to be created and those are the Codes of Practice – they will no longer be known as Directions – that will govern all matters relating to party political broadcasts etc.

1545

1550 Mr Speaker, I assume that what should, additionally, happen, is that we will adopt Governor’s Directions as the Directions of the Authority so that there isn’t a moment in time where we are left with nothing. But I also would have thought that, as the process of modernisation proceeds, the Authority will seek to speak to all those who should be consulted, not least the Hon. the Leader of the Opposition, as much as the Chief Minister and other parties who he might consider it is appropriate to consult.

But may I refer the hon. Gentleman, Mr Speaker, in particular to clause 23, because clause 23 reads

1555 ‘Schedule 3 shall apply in respect of radio and television broadcasts and any codes of practice issued under that schedule shall be deemed to have been issued under section 22 of this Act.’

1560 That is in respect of political broadcasting so I do not think that this is a ‘goodwill’ – that the code will be required – my reading of the Act, and I believe the Authority’s reading of the Act, is that there is a moment, when this Act becomes law, where the Governor’s Directions become, in effect, adopted as codes of practice of the Authority and then there is consultation afterwards, if necessary.

Hon. P R Caruana: Mr Speaker, just two small points.

1565 On the codes of practice point again, he has missed the point – I was not saying that there isn’t *power* for the Authority to make a code of practice *requiring* party political broadcasts. Obviously, it is there: I pointed it out to him myself. The point is that he is not *obliged* to do so.

Nothing in this Bill *obliges* the Authority to have party political broadcasts, still less the terms on which to have them. Therefore, we shall have party political broadcasts *if* the Authority decides that we should have them and on the terms that the Authority decides that we should have them. My point is that that should not be so. We think party political broadcasts are such an important part of the landscape that

1570 he should be *obliged* to issue guidelines and have party political broadcasts. To point to a section which gives him the power to do so, if he wants to, hardly addresses the point that I made.

1575 On the slightly different point about the reasons why he might not have challenged and queried subsection (7) and (8) of 67 of the Communications Act: there may be many, amongst them may be the fact that, of course, that Act was drafted by the firm of which he was then a partner and he would have to criticise his own work.

1580 **Hon. Chief Minister:** It is that sort of final snide remark that sometimes brings us to explosions of the sort that we then regret later during the course of the debate, so I shall do, Mr Speaker, what I should have done with the hon. Gentleman many years ago when he started making that sort of snide remark, ignore it and start dealing with the substance of what he says.

Hon. P R Caruana: He is right that he should do that, but he is wrong in the reasons why he has decided he should do that.

1585 Mr Speaker, I have sat here, having given what I thought was a very helpful analysis. Indeed, he recognised that it was a very helpful analysis and I have sat doing exactly what he has now decided he is going to do himself, namely ignore the snide remarks. I have sat here, listening to him punctuate almost every answer that he has given with snide remarks about whether he ever had an AGM and about this and about that. I have not leapt to my feet on the first occasion in which I do what he has done on a dozen occasions today. He takes offence. Methinks the hon. Member takes offence just too easily!

1590 **Hon. Chief Minister:** Mr Speaker look, it is just unnecessary to say your partner drafted this and therefore you would not have got up to challenge, which is to impute to me what I can only assume is an improper motive. Because if I had felt as strongly about sections of the Communications Act as the hon. Gentleman does, I would have been doing the people of Gibraltar a huge disservice if not of fraud, for not getting up and making those statements simply because Tony Provasoli might have happened to have drafted the Bill.

1595 That would *never* have been the case, Mr Speaker, and that is why that sort of snide remark is outside what should be dealt with in this Parliament. If the hon. Gentleman wants to equate that with saying to him ‘We have made exactly the same section that you made, so there can’t be a concern of yours because you moved the Bill and did not have the concerns’ ... or is it that the hon. Gentleman is saying that when he read the Bills before he moved them, he did not apply the level of scrutiny that he applies to them now? Mr Speaker, I am just going to pass from that sort of snide remark, which is totally unnecessary and really serves only to bring this place into disrepute.

1600 Mr Speaker, I *also* questioned whether restricting religious entities from owning channels was necessary, if only because there seems to be a business in that and it may be wise to have that door open. The reason why we have not done so at the moment is because we are modelling ourselves on the United Kingdom precedent, not the European one. The European one does not require that that door be closed but let us, if the hon. Gentleman would excuse the expression, ‘let’s suck it and see’ if anybody does come with such an application and then, if necessary, consider it. I do not actually think they would come because there are a *limited* number of transponders available, as he will know, and we already know the sorts of individuals and entities that are being attracted and are more likely to be of the rolling news character than they are of the ... but it is a potential *business*, actually, for Gibraltar.

1605 Mr Speaker, I *also* questioned whether restricting religious entities from owning channels was necessary, if only because there seems to be a business in that and it may be wise to have that door open. The reason why we have not done so at the moment is because we are modelling ourselves on the United Kingdom precedent, not the European one. The European one does not require that that door be closed but let us, if the hon. Gentleman would excuse the expression, ‘let’s suck it and see’ if anybody does come with such an application and then, if necessary, consider it. I do not actually think they would come because there are a *limited* number of transponders available, as he will know, and we already know the sorts of individuals and entities that are being attracted and are more likely to be of the rolling news character than they are of the ... but it is a potential *business*, actually, for Gibraltar.

1610 If the United Kingdom does not want to have such channels, I have absolutely no objection to them if they are not problematic in their own way – but they would require regulation. (**Hon. P R Caruana:** Yes.) The hon. Gentleman will know that there are, for example, if I may call them ‘televangelists’ in the United States which we might *not* want transmitting from Gibraltar to the rest of Europe for reasons which are ventilated in the more salubrious parts of the press.

1615 But there are perfectly proper channels which transmit the beliefs of people to those believers and there would be no reason for excluding them from Gibraltar, in our view, if those, potentially, came in the future but, at the moment, we have adopted the model of the UK.

1620 I will allow him to say a few words...

1625 **Hon. P R Caruana** Yes, Mr Speaker, I am not inviting him, I just wanted to know... The point is this, that I do not know how the UK is affected in this respect by the fact that they now have the Human Rights Act but, of course, we have always been in a slightly different position of having a constitutional right to certain freedoms which include religious worship and things and I think it is only a matter of time before somebody challenges this prohibition as being a violation of the constitutional right not to be discriminated and not to have the rights of worship and religious expression curtailed.

1630 I am not suggesting to the hon. Member that he should now change it. *We* would not have written this provision into the Bill, had we been on the other side of the House. The fact that it is in the United Kingdom legislation would have been neither here nor there to us.

1635 There are channels that people watch in Gibraltar on satellite in this respect. They are not all
 televangelists: some of them are just religious programming without being somebody on a stage, sort of
 preaching. There is one called EWTN, there is another one called The God Channel, there is a Muslim
 version... I don't know if there is a Hindu version – if there is, I have not seen it. These things now
 proliferate and the idea that it should not be possible *in Gibraltar* to obtain... that if there is such a
 channel... I do not think it is true that such a channel could not exist... it is that it could not be owned
 by... religious bodies would be disqualified from owning it. I suppose they would have to hide behind
 some believer, but not being the religious body itself. It just seems, in this day and age, an unnecessarily
 restrictive provision.

1640 **Hon. Chief Minister:** Mr Speaker, on that we can both agree, to keep that under review.

1645 But paragraph 3 of that schedule – Schedule 2 – I do not agree can create the sort of problem that the
 hon. Gentleman alludes to with us, or any Government, funding 49.9% of a broadcaster where, by not
 going over the 50% of funding, we would somehow be able to avoid the licensing regime in an
 unaccountable way.

1650 It is true that you could avoid the licensing regime by funding 40% of a broadcaster and not more than
 50%, but you could not do it in an unaccountable way because the accounts of Gibraltar Plc are such that
 it would not be possible to hide that contribution. Indeed, when that *happened* in respect of the media it
 was not possible to hide it. The hon. Gentleman and I have had this debate on a number of occasions. He
 funded the *Seven Days* newspaper to the tune of £150,000 and he was properly accountable in this House
 for spending the money on it and, therefore, also more publicly to the electorate because the Opposition
 scrutiny on that subject was put to the electorate. So if somebody were – and, of course, he was saying he
 recognises it was not the intention it should be – in the future, in Government, to want to contribute just
 shy of 50% of the funding of a channel in order to somehow get it to do its bidding, I assume, but avoid
 the licensing aspects which affect public sector broadcasters, where there is an express carve-out only for
 GBC, well, Mr Speaker, they would be otherwise accountable. That is not something that I think is ever
 likely to happen.

1660 Mr Speaker, paragraph 6 is also much like the issues relating to religious broadcasters, something that
 we have considered in the context of it being an identical provision to the UK. It is, actually, not less
 sophisticated or more sophisticated than the United Kingdom and I take the hon. Gentleman's point that
 there is nothing to stop *broadcasters* from becoming newspaper publishers whilst there is something that
 creates a hurdle, not to stop, but to create a hurdle, for discretion to be exercised when newspaper
 publishers wish to become public broadcasters. I think that is simply an historical issue. I think the
 Newspapers Act sets out the regulation of newspapers in a way that is relevant to the time when it was
 done and this modern media legislation sets out the position in respect of modern media, modern
 broadcasting media, in this way. It does not cause us a concern and I have specifically, in my speech,
 alerted the hon. Members to the fact that we would not think it is contrary to the public interest in
 Gibraltar for a newspaper proprietor to become a licensed broadcaster unless there were *specific* public
 interest reasons to kick in.

1670 **Hon. P R Caruana:** Mr Speaker, if the hon. Member could give way, hopefully, for the last time
 because we're coming to the end. I am grateful to him.

1675 I don't know whether the hon. Member just misses my point or whether he is determined to push this
 Bill through the House without acknowledging the merits of any of my points. The point that I have made
 here could not be more simple, could not be more uncontroversial, could not be more helpful and could
 not be more obvious, which is that, we in this House are – and I am not questioning it – passing a piece of
 legislation that says if you own a newspaper you are going to have all these difficulties getting a licence
 for broadcasting, so all people have to do it is in a different order. I will get the broadcasting licence first,
 then I will go for the newspaper and then there is nothing in the Bill to prevent it.

1680 Mr Speaker, if the hon. Member is not willing to acknowledge even that *obvious* point, then he must
 be in the mood of being determined to concede *nothing* because it is not as if I am criticising. I am trying
 to make his own statutory measure effective and, even though it is as *plain as daylight* that it cannot be
 the intention of this Bill to affect the result depending upon the order in which you do two steps... If you
 do it in order one, you can have both the newspaper and keep your broadcasting licence but, if you buy
 your newspaper first, then you have much greater difficulty getting a broadcasting licence. If you do it the
 other way round, there is no power to revoke your licence, your broadcasting – it cannot be the intention
 of this Bill to bring that situation about.

1690 I point that out to the hon. Member and, instead of just taking the point on board, he finds a couple of
 passing remarks to say that he does not agree. This is not something to agree on or not agree on, it is *plain
 fact*. It is not a judgement that I am making. I am not expressing an opinion upon which he might
 legitimately have a different one. It is incontrovertibly so. All I am saying is, does he want to take the
 opportunity to close the plainly unintended – I can only assume plainly unintended – sort of gap,

1695 loop-hole, to avoid the consequence – which is purely what the Act wants to avoid – of, I suppose, dominant media and dominant press all coming together to create whatever they call it, multi media monopoly, or whatever the phrase is? Even on this, the hon. Member says that he does not think the consequence that I have said could arise. Well, how could it not arise? It will necessarily arise.

1700 Mr Speaker, it will necessarily arise. If GBC tomorrow acquires a newspaper, there is no power in this Act for the Authority to revoke the licence that it would not have given to GBC had it had the newspaper when it applied for a licence. If the hon. Members are content for that to be the law of Gibraltar, given that they have a parliamentary majority, then that will be the law of Gibraltar but I can't imagine that it is what they really intend.

1705 **Hon. Chief Minister:** Mr Speaker, I don't know whether the hon. Gentleman goes back to read *Hansard* but, if he does, he should look at what I said in my original speech and the first reply that I have given to the point he made before, because I have not said that what he suggested cannot happen. I have accepted that it can and I have explained to him why I think that is the case, in respect of the regulation of newspapers having happened, historically, first, and the regulation on broadcasting having happened, historically, second.

1710 I have also told him that I do not share his concern because all that is happening here, Mr Speaker, is that, whilst a broadcaster can tomorrow acquire a newspaper, or commence publication of a newspaper, by simply paying £5, signing an affidavit and sending it to No. 6 Convent Place under the Newspapers Act, a newspaper proprietor has to go through a hurdle. As I have said during the course of my initial speech, and I have replied, that hurdle should only be there where there are specific instances of the public interest, engaging for a particular purpose. Therefore, we think this is not an issue where we need to depart from what has been a tested transposition of those directed requirements in the United Kingdom. We are therefore going to go with this draft, but I have not ignored anything the hon. Gentleman has said, for the reasons he suggests or otherwise. I have dealt with them.

1720 I will assume he is just not happy with the way I have dealt with them and that is why he has had to say that I have either misunderstood, because I couldn't understand or because I wanted to misunderstand. So Mr Speaker look that is the position, we on this side of the House are perfectly happy with the way this is drafted, we are not being "bloody minded" in inverted commas in not accepting an amendment, it is that *we* – namely not us who have been sitting here through the debate, but me and the draftsman and the Cabinet when we considered it as it was, considered that it was appropriate to proceed in this way. (*Laughter and interjection by Hon. P R Caruana*) I know that the concept of Cabinet responsibilities is so alien that it even brings smiles to the hon. Gentleman's face, but anyway...

1725 Finally, Mr Speaker, in respect of paragraph 2.(1) and (3) of the third schedule, I understand what he is getting at in respect of balance there but, again, already issues of balance are taken as a whole. He will know that, in the law of libel, an article has to be read as a whole not seen just in respect of a headline and, in the law of broadcasting, Mr Speaker, one cannot look at one part of a broadcast, or a broadcast on its own, one has to look at a whole series of broadcasts.

1730 If I can just give him an example so that he might understand that I *have* understood his position, even if I don't share it, despite the continual disparaging remarks that he is making to those that lap them up to his right. The fact is, Mr Speaker, that during the course of an election campaign, for example, there are not just debate programmes, there are not just party political broadcasts, there are also, for example, phone-ins. He will recall that, during the last general election campaign, there were phone-ins and, in the phone-in, there are only members of one political party present, with a presenter from the relevant broadcaster. During the course of a – let us avoid GSD or GSLP Liberals – PDP phone-in, for example, a broadcaster may present a question, or may present the programme, in a way that might by the other parties be considered to be partial to the people who are in the studio: 'Here I am joined by the members of the PDP, who are asking members of the public to entrust them with their vote for this their manifesto, containing a new park etc etc.' On its own, that would be political bias during the course of a general election campaign but, with three political parties, or three political forces, contesting a general election and three similar programmes with three presenters, either the same one or a different one, presenting such a programme, making similar remarks at the beginning of the programme for each of the political parties contesting the election then, on balance, during the course of the campaign there would be no issue of bias. That, Mr Speaker, is one of the sorts of things that would be covered by this Directive, by these paragraphs.

1745 Again, these paragraphs are –

1750 **Hon. P R Caruana:** Is he speaking to Schedule 3?

Hon. Chief Minister: Yes.

These paragraphs are taken from the Broadcasting Act in the United Kingdom so, Mr Speaker, we are confident that there are, there *should be*, no concerns in respect of the operation of those paragraphs and

1755 that there will always be free and fair elections in Gibraltar, with broadcasters respecting the rules of ballots.

Hon. P R Caruana: Mr Speaker, I am grateful for him giving way.

1760 **Mr Speaker:** Order – is the Chief Minister giving way?

Hon. P R Caruana: Yes, it is clear that he is giving way, he is sitting down. I do not want to further controversialise [*inaudible*]

1765 **Mr Speaker:** No, I thought he had finished.

Hon. P R Caruana: He is not sitting down to rest.

1770 Mr Speaker, here is an example of what I mean by his failure to deal with my comments adequately. Everything that he has just said is prefixed by the fact that ‘I don’t share his opinion’. I have not expressed an opinion and this is not about ‘balance’ and ‘elections’, it is about a *flagrant contradiction* in the language of two different bits of law within two inches of each other and within three lines of each other. It is not about *opinion*, it is about wanting to know which of the two is the law.

Paragraph 2.(1) says:

1775 ‘The code of practice shall require that television and radio services shall exclude *all* expressions of the views or opinions of the person providing the services...’

In other words, on no occasion may any service provider on any programme express his own opinion.

1780 Paragraph 2(3) a couple of inches further away says the requirement of everything that I have just read

‘...may be satisfied by being satisfied in relation to a series of programmes taken as a whole.’

1785 A series of programmes taken as a whole. If that means, as it can only mean, that there *can* be an expression of opinion by the service provided in some programmes, so long as he balances it with a contrary expression of opinion in another programme, it is a breach of (1) that says that it cannot happen on *any* occasion. All I am asking is, which of the two is it? It is not a matter of opinion to be agreed with or disagreed with.

1790 **Hon. Chief Minister:** It is an opinion with which we disagree, Mr Speaker.

For the reasons I have already explained and I think are clear from the text and the purpose of the text.

1795 So, in the context of broadcasting in Gibraltar, we are convinced that this Bill, despite the issues raised by the hon. Gentleman and with the explanations that I have provided, will improve and modernise the provision of broadcasting from Gibraltar to a *very* considerable extent, bringing broadcasting and the regulation of it into the 21st century, and finally delivering a digital transmission network properly regulated and exploited for the benefit of our people: something, Mr Speaker, which I will now have no hesitation in saying, given the tenor of the hon. Gentleman’s interventions, as I said during the course of the Budget debate, had been much talked about by hon. Members when they were on this side of the House and yet they have done *absolutely nothing* and made not a *penny* of investment, when we were first elected last year. Something, nonetheless that our investment in broadcasting will deliver in time for the analogue shut off on 31st December this year, when we turn on on 1st January to digital broadcasting *inter alia*, hopefully, including the Gibraltar Broadcasting Corporation.

1800 For all of those reasons, Mr Speaker, for the reasons I gave in my opening address in the Bill, for all the reasons I have dealt with in respect of the interventions made by the hon. Gentleman, I continue to commend the Bill to the House. (*Applause*)

1810 **Mr Speaker:** I now put the question, which is that a Bill for an Act to make provision for the Gibraltar Broadcasting Corporation and to transpose into the law of Gibraltar Council Directive 2010/13/EU of 10th March 2010 of the European Parliament and of the Council on the co-ordination of certain provisions laid down by law, regulation or administrative action in member states, concerning the provision of audiovisual media services supplementing Directive 2007/65/EC of the European Parliament and the Council of 11th December 2007, and for connected purposes, be read a second time.

1815 Those in favour. (**Government Members:** Aye.) Those against. (**Opposition Members:** No.) Carried.

Hon. P R Caruana: By Government majority.

Hon. Chief Minister: Mr Speaker, if it is convenient for the hon. Gentleman to make a point, I am quite happy to call for a division, if he likes.

1820 **Mr Speaker:** Is a poll sought?

Hon. P R Caruana: [*Inaudible*].

1825 **Mr Speaker:** Yes. The Clerk will call out the names of hon. Members in alphabetical order and Members are invited to respond 'aye' or 'nay'.

	FOR	AGAINST
1830	Hon. P J Balban Hon. C A Bruzon Hon. N F Costa Hon. J J Garcia Hon. G H Licudi Hon. S E Linares Hon. F R Picardo Hon. Miss S J Sacramento	Hon. D J Bossino Hon. P R Caruana Hon. Mrs I M Ellul-Hammond Hon. D A Feetham Hon. S M Figueras Hon. E J Reyes

Mr Speaker: The question that the Bill be read a second time is carried by 8 votes to 6.

1840 **Clerk:** The Broadcasting Act 2012.

The Broadcasting Bill 2012
Committee Stage and Third Reading to be taken at this sitting

1845 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

1850 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

Mr Speaker: The Committee Stage and Third Reading of the Bill will be taken today.

1855 **Clerk:** A Bill for an Act to amend the Births and Deaths Registration Act and related legislation. The hon. –

1860 **Hon. P R Caruana:** The Hon. Mr Speaker has taken our silence as consent, has he? We do consent, but not that anybody did express it on this side. Our silence... This is not a majority vote. [*inaudible*] unanimous, as an affirmation [*inaudible*].

Mr Speaker: The Question that I put was, 'Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today?'

1865 **Hon. P R Caruana:** And *all* hon. Members agreed?

Mr Speaker: Yes, and all I heard was 'yes'. I did not hear a single 'no'.

Hon. D A Feetham: You did not hear any 'yesses' from this side.

1870 **Mr Speaker:** I heard only 'yesses' and I did not hear a 'no', therefore I took it that all Members *do* agree. There is no other interpretation for that, really.

1875 **Hon. Chief Minister:** Mr Speaker, you are quite right to say that, because this has been the position in the House for some time, both with them there and us there, or some people answer a 'yea' or do not utter a 'yea' at this time, and if there is not a 'no' heard, the matter goes ahead.

Mr Speaker: I can only go by what I hear. If I hear a 'yes' and I do not hear a 'no', I cannot possibly pluck a 'no' out of the air.

1880 **Hon. P R Caruana:** The hon. Member [*inaudible*] slightest provocation [*inaudible*] (*Interjections*)

Mr Speaker: Order, order. (*Interjections*) I think we have got enough sound effects outside these Chambers. (*Laughter*)

1885

The Births and Deaths Registration (Amendment) Bill 2012
First Reading approved

1890 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Births and Deaths Registration Act and related legislation be read a first time.

Mr Speaker: I now put the Question, which is that a Bill for an Act to amend the Births and Deaths Registration Act and related legislation be read a first time.

1895 Those in favour. (**Members:** Aye.) Those against. Carried.

Clerk: The Births and Deaths Registration (Amendment) Act 2012.

1900

The Births and Deaths Registration (Amendment) Bill 2012
Second Reading approved

1905 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

The purpose of the amendments contained in this Bill are to harmonise the position between the present legislation that governs the registration of stillbirths, as found under the Births and Deaths Registration Act, and the legislation defining a stillbirth for the purpose of employment rights under the Employment, Maternity and Parental Leave and Health and Safety Regulations 1996.

1910 The current position is that there is a discrepancy in the legal definition of stillbirths under the aforementioned legislation. Under the Births and Deaths Registration Act, a stillbirth can only be registered if it occurred after 28 weeks of pregnancy whereas, under the Employment, Maternity and Parental Leave and Health and Safety Regulations, a woman is deemed to have given birth if she is delivered of a still-born child after 24 weeks of pregnancy.

1915 This creates a conflicting situation and can cause distress. A woman may be deemed to have given birth under one piece of legislation, but is then prevented from registering the stillbirth under the other. This Bill remedies this by harmonising the definition of stillbirth to refer to 24 weeks of pregnancy throughout the different laws.

1920 This Bill also amends supplemental provisions as to maternity grants contained in the Social Security (Insurance) Act at clause 3 by substituting 28 weeks of pregnancy to 24, thus bringing it on par with the Employment, Maternity and Parental Leave and Health and Safety Regulations and the proposed amended Births and Deaths Registration Act.

1925 This Bill also contains certain transitional provisions, as set out in clause 4.(1), to allow for the voluntary registration of stillbirths which occurred during the time when the discrepancy was in effect and which fell within that window, i.e. stillbirths which occurred between the 24 and 28 weeks of pregnancy *and* between 1st January 1996 and the coming into force of the provisions of this Bill. The reason for making this legislation apply retrospectively in this way to 1996 is because this is when the age of viability in Gibraltar was initially changed from 28 to 24 weeks.

1930 It is important to stress that registration of stillbirths that fall within this retrospective window is voluntary and that this Bill imposes no obligation whatsoever to register, in order to avoid further upset to those for whom, 16 years down the line, the process of registering the birth of their still-born child and the emotions that go hand in hand with that, may be more harmful than helpful.

1935 This is of utmost importance and is made clear in clauses 4.(2) and 4.(6). If a person being the person who would otherwise have been required otherwise by the Births and Deaths Registration Act to give information concerning the birth wishes to register the birth of a still-born child in the supplementary register, he or she may apply to the Registrar, providing such information as set out in clauses 4.(4)(a) and (b), provided he does so within 12 months after the coming into force of this Bill, failing which written authority of the Minister responsible for personal status will be required. The remainder of the Bill deals with the form of the register etc.

1940 Mr Speaker, hon. Members will note that the lead in respect of this matter has been taken by the Hon. Dr John Cortes. It was he, as Minister for Health, who received representations from representatives of

those affected. Constitutional responsibility, nonetheless, rests with me, as Minister with responsibility for personal status, and I therefore move the Reading of the Bill today.

I commend the Bill to the House.

1945

Mr Speaker: Before I put the Question, does any hon. Member wish to speak on the general principles and merits of the Bill?

I now put the Question, which is that a Bill for an Act to amend the Births and Deaths Registration Act, and related legislation, be read a second time.

1950

Those in favour. (**Members:** Aye.) Those against. Carried.

Clerk: The Births and Deaths Registration (Amendment) Act 2012.

1955

**The Births and Deaths Registration (Amendment) Bill 2012
Committee Stage and Third Reading to be taken at this sitting**

1960

Chief Minister (Hon. F R Picardo): Mr Speaker, I beg to give notice that the Committee Stage and the Third Reading of the Bill be taken today, if all hon. Members agree.

Mr Speaker: Do all hon. Members agree that the Committee Stage and the Third Reading of the Bill be taken today? (**Members:** Aye.)

1965

Mr Speaker: The Committee Stage and Third Reading of the Bill will be taken today.

1970

**The Criminal Justice (Amendment) Bill 2012
First Reading approved**

Clerk: A Bill for an Act to amend the Criminal Procedure and Evidence Act 2011 and the Crimes Act 2011.

1975

The Hon. the Minister for Education, Financial Services, Gaming, Telecommunications and Justice.

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): I have the honour to move that a Bill for an Act to amend the Criminal Procedure and Evidence Act 2011 and the Crimes Act 2011 be read a first time.

1980

Mr Speaker: I now put the Question, which is that a Bill for an Act to amend the Criminal Procedure and Evidence Act 2011 and the Crimes Act 2011 be read a first time.

Those in favour. (**Members:** Aye.) Those against. Carried.

1985

Clerk: The Criminal Justice (Amendment) Act 2012.

1990

**The Criminal Justice (Amendment) Bill 2012
Second Reading approved**

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): I have the honour to move that the Bill be now read a second time.

Mr Speaker, this Bill introduces several amendments to the Criminal Procedure and Evidence Act 2011 by clause 2 of the Bill and to the Crimes Act by clause 3 of the Bill.

1995

As all hon. Members know, these two Acts were debated in Parliament at the end of July 2011. They were published, after receiving Assent, in the *Gazette* of 18th August 2011, but have not yet been brought into effect, except for a number of provisions which I will refer to in a moment.

2000

During the course of the Second Reading of these two Acts, I indicated, on behalf of the Opposition at the time, that we welcomed the provisions to a very large extent. However, we were not able to fully support the Bills as a result of the provisions in the Criminal Procedure and Evidence Act in particular. I am talking of the Criminal Procedure and Evidence Act at the moment. We were not able to fully support that and vote in favour because of the sections which related to inferences from silence – essentially, what we regarded as the removal of the right to silence, the removal, or the abolishing, of a fundamental right.

- 2005 In the circumstances, we abstained from the Second Reading in relation to the Bill.
 We have done much work since we came into office, liaising with the relevant authorities and making sure that everybody was ready. It would have been our desire to have this not just on the statute books as it is, but commenced earlier, and we have had several discussions across the floor of this House since January of this year. It is now the position that we are ready to commence the two Acts in particular, and it is our intention – again, a slight qualification which I will mention later on – to have the two Acts, subject to the amendments – assuming that these are passed today – commence on 4th October 2012, which is next Thursday, on the publication of a notice in the *Gazette*. That, again, depends on the passing of the legislation today and the Assent being received and the necessary formalities being done during the early part of next week.
- 2010
- 2015 There are some provisions, Mr Speaker, in relation to the Criminal Procedure and Evidence Act, which have already commenced. By notice of commencement, which was published on 16th February 2012, we commenced, in particular, as from 8th March 2012, part 25 of the Criminal Procedure and Evidence Act, which deals with rehabilitation of offenders. We also had to commence, in order to make that possible – the effective commencement of part 25 – we commenced section 2.(1) of this Act which relates to definitions, section 698 and schedules 11 and 12. So all of those came into operation on 8th March 2012. It now remains for the rest of the Act to come into play.
- 2020 It is not my intention, in moving the Second Reading of this particular Bill, to repeat all the arguments on our side that we put forward at the time of the Second Reading of the Bill in July of last year. Hon. Members will recall that the debates largely centred on what I have mentioned already relating to the right to silence and the inferences which could be drawn under *these* provisions from silence. Members will recall that, during the course of my intervention, I described this right as a fundamental right. I pointed out, in particular, that there was a Royal Commission in the United Kingdom in 1991, which reported to Parliament in 1993, which recommended *against* any changes which meant the removal of the right to silence or drawing inferences from silence. Notwithstanding those recommendations of the Commission, Parliament in England decided in 1994 to introduce amendments.
- 2025
- 2030 It is also useful to recall why those provisions in England were introduced, whereby inferences could be drawn from silence. They originated in Northern Ireland, where it was enacted in the first instance, and that arose simply in the fight against terrorism, where it was felt that inferences from silence should be drawn, specifically because of the need to combat terrorism and deal with terrorists. In England and Wales, again, part of the justification when this was introduced in the 1990s was to deal with terrorists and hardened criminals, criminals who used the system repeatedly and who were able to abuse the right to silence in order to obtain some advantage.
- 2035
- 2040 The history of the right to silence goes back a number of centuries, Mr Speaker. It can originally be traced back to the 17th century with the Star Chamber, when suspects were obliged to answer questions and they were locked up until they decided that they wanted to answer those questions. That then moved totally the other way in the history of the 19th century, when defendants were actually *forbidden* from giving evidence in their own defence. There was a famous pronouncement by a famous US jurist, John Henry Wigmore, when this principle emerged that ‘no man is bound to incriminate himself on any charge, no matter how properly installed in any court, and that led eventually to what came to be known as the right to silence and it was enshrined in the judges’ rules in 1912, exactly 100 years ago.
- 2045
- 2050 As far as the Government is concerned, and in line with the position that we took on the debate in the Second Reading of the Bill, as it was then, which is now the Criminal Procedure and Evidence Act, this is a fundamental right which ought to be preserved for Gibraltar. That is precisely what clause 2.(8) of the Bill does, and that is the fundamental provision, as far as this is concerned. Clause 2.(8) deletes sections 359 to 364. These are the sections which relate to inferences from silence, and therefore, by deleting these sections, it is clear that the right to silence is preserved and no inferences can be drawn from silence.
- 2055
- 2060 But that is not the end of the matter, Mr Speaker, because consequential on the deletion of the possibility of drawing inferences from silence, it necessarily follows that if someone has a right to be silent on arrest, at the police station, at trial, and no inferences can be drawn, and then has a right not to incriminate himself in any way and has a right not to give evidence and to put the prosecution to proof of its case – in other words, not to say anything at all throughout the whole trial process – in order for that right to be preserved, we also have to make a number of *further* amendments to the Act, and in particular those provisions of the Act which relate to disclosure of material. There are provisions introduced in part 12 of the Act which relate to disclosure of material both by a defendant and the prosecuting authority and, in particular, there is a provision which would require the *compulsory* disclosure by the defendant by producing a defence statement, and a defence statement would be required to set out a number of matters which are set out in the Act, including setting out the defence and setting out the defendant’s... or the facts and points of law which the defendant takes issue with. We consider that leaving those provisions – a compulsory provision for the disclosure of the defence case – to be incompatible with the removal of the inferences from silence. So, if someone is entitled to be silent, then that person should not be obliged, or cannot be obliged, to make disclosure of a defence statement.
- 2065

2070 We are preserving, nevertheless, in the Act, the provisions which relate to voluntary disclosure or
 defence statement, because we consider that that is right. At the moment, anybody has a right... It is not a
 statutory right, but there is nothing that prevents a defendant from showing his cards either at interview or
 during the course of proceedings in court, or simply by writing to the court and the prosecutor in advance
 2075 of a trial and saying, 'This is my defence, please take it into account.' Sometimes that is done in an
 attempt to convince the prosecutor that the case does not stand up to scrutiny and should be withdrawn,
 but there is nothing preventing, at the moment, a defendant from sending a letter and setting out his
 defence in advance, if that defendant chooses to do so. What the statutory scheme does is create a
 mechanism whereby voluntary disclosure can be made of a defence statement which sets out certain
 matters, and if a defendant wants to avail himself of those provisions and make that voluntary disclosure,
 then there is no reason why that person should not be entitled to do so.

2080 One of the consequences of removing the compulsory right and leaving the voluntary disclosure is
 that the defendant may *not* make voluntary disclosure – in other words, there may be no disclosure at all –
 and one of the items which is set out in the contents of this defence statement of the Act is the
 requirement to give particulars in relation to alibis which may be relied on. That is currently part of the
 common law. At the moment, there is a requirement for a defendant who wishes to rely on an alibi to give
 an alibi notice setting out certain matters that he intends to rely on, and because there is a possibility,
 without the compulsory disclosure and without the voluntary disclosure, that there will be *no* disclosure
 2085 under the statutory scheme in relation to alibi, then what we do under the Bill which is before the... Act
 today, by clause 2.(7) is reintroduce the requirements of a notice of alibi *if* the defendant is going to rely
 on an alibi. Therefore we felt that that was consequential to the amendments and it was a necessary
 provision that we should have.

2090 That, in a nutshell, Mr Speaker, is what clauses 2.(6), (7) and (8) of the Bill before Parliament today
 do.

2095 There are a number of other minor amendments of an insignificant nature in relation to typographical
 errors, and a number of changes of numbering which we have realised.

We have also added, through clause 2.(2), a number of new definitions. These are simply additional
 definitions that are included for clarity and for certainty.

2100 The other amendment we are proposing to make in relation to the Criminal Procedure and Evidence
 Act, Mr Speaker, is in clause 2.(10) and 2.(11) of the Bill. These matters relate to child witnesses, where
 those child witnesses are, as set out in the Act, the current provisions, in need of special protection. We
 found that there was no mention in the Act as to *when* the circumstances arise as to when a child is in
 need of special protection, and all we have done is clarify the circumstances as to when that child should
 be considered in need of special protection. That would arise in proceedings which relate to a sexual
 offence or an offence of violence, and what we have done by adopting that wording is simply reflect the
 provisions that currently exist under the Crimes (Vulnerable Witnesses) Act 2009, so I would hope that
 those are not controversial.

2105 Mr Speaker, if I could turn to clause 3, which relates to amendments to the Crimes Act, part 7 of the
 Crimes Act, Mr Speaker, deals with hate crimes. In particular, it relates to religious and racial hatred. We
 have a manifesto commitment to legislate in respect of all areas of hate crimes, and therefore we will
 expand – not in this Bill, but in due course – on the provisions of part 7 so as to include hate crimes in
 respect of other matters, such as homophobia and disability. We are currently working on amendments to
 the Crimes Act, but what I wanted to do today, given that we are introducing a Bill to amend the Crimes
 Act, is simply put the House on notice that we are working on further amendments to part 7 and we will
 2110 introduce those amendments, hopefully, very soon.

For the purposes of today, and in relation to part 12, which are the current provisions in relation to the
 Crimes Act, we are proposing an amendment to section 113 of the Crimes Act, and that is by clause 3.(2).

2115 Section 113 of the Crimes Act, Mr Speaker, deals with racially aggravated offences and there is a
 reference... It creates an offence in its own right, a racially aggravated offence, but in respect of other
 offences, and the other offences, by 113.(1)(a) relates to an offence under section 166, which is wounding
 with intent to cause grievous bodily harm, or 167, which is malicious wounding. There is a separate
 offence... Where somebody commits the offence of wounding with intent to commit grievous bodily
 harm they commit an offence under section 166. There is a separate offence under section 113 where, in
 addition to the ingredients of that offence, there is racial aggravation, a separate offence. So it is not just
 2120 that the aggravation is taken into account for the purposes of sentencing; it is a new, probably considered
 more serious, offence, because it has an aggravating feature.

2125 What we discovered is, quite simply, an anomaly, which we are seeking to correct in this Act because,
 under section 166, which is wounding with intent to cause grievous bodily harm, the maximum penalty is
 life imprisonment whereas, under section 113, which is the racially aggravated wounding with intent to
 cause grievous bodily harm, the maximum penalty is seven years, and we therefore felt that it was
 anomalous, and probably simply an error, that an aggravated offence should have a much lesser sentence
 than the original offence of wounding with intent to cause grievous bodily harm. Therefore, we are

simply seeking to correct that by increasing the maximum penalty for the aggravated offence to the same level as it is for the original offence, which is life imprisonment.

2130 We are also seeking to correct what we consider, again, an error by clause 3.(4) of the Bill where, in section 176.(a) of the Crimes Act we are substituting a sentence of 12 months for what is now considered to be a sentence of six months. Section 176, Mr Speaker, relates to assault occasioning actual bodily harm. We have a further section in the Crimes Act, section 175, which is common assault, and common
 2135 assault, on summary conviction, has a sentence of nine months, whereas assault occasioning actual bodily harm, which is a more serious offence, we currently have, on summary conviction, a maximum penalty of six months. We consider that section 176 creates a more serious offence than section 175 and if, in 175, for common assault we have a maximum sentence of nine months on summary conviction, then the appropriate level of sentencing for assault occasioning actual bodily harm should be 12 months rather than six months. Again, we regarded this as simply an error which we are correcting.

2140 Mr Speaker, clause 3.(5) of the Bill is an important amendment. It is a substantive amendment. Sections 306 to 316 of the Crimes Act introduce provisions for the first time in Gibraltar requiring notifications for the purposes of being entered into a sex offenders' registry. By section 308.(1), the provisions relating to notification and the requirement to be entered into the sexual offenders' registry have retrospective effect. We had some concerns as to the practical effect of the operation of this and we
 2145 have consulted, particularly with the Royal Gibraltar Police, on this matter, and the concerns are that there may be persons in Gibraltar who committed an offence, maybe years ago, who are not required, because there was no legislation at the time, to go on a sex offenders' registry. Those persons may well have rebuilt their lives. Those persons may well have children or young families, and for now – next Thursday or next Friday – to have a police officer knock on their door, remind them of that and cause them to enter, go on the sex offenders' registry we felt could have a devastating effect, not so much for the person who committed the offence but for the family and perhaps young children and other children
 2150 who, for all we know, may even be unaware of what had happened. We consider that the sex offenders' registry is a good thing – not just a good thing, it is a necessary provision that we need to have in Gibraltar – but it is also necessary, in our view, to draw a line and choose a date from which notification for the purposes of entry into the registry should apply, and we considered that that date should be the date of commencement of the Act.

2155 There is an exception which we are introducing to that because there may be persons who are currently serving a sentence of imprisonment in respect of a relevant offence, for the purpose of notification and entry into the sex offenders' registry, and that conviction would have happened already before the commencement of the Act. Therefore, we are introducing amendments to make it clear that the notification requirements arise from the matters listed in the Act – and they have caution or conviction etc, but also on the date of release from prison on the service of a prison sentence. There are, as hon. Members will see, also in relation to the Crimes Act, a couple of other draftings for tidying-up provisions which are actually included.

2160 Mr Speaker, by letter to you of 21st September, which I asked should be circulated to all the Members of the House, I gave notice that I will be moving a number of amendments to the Crimes Act at Committee Stage, and it is probably right at this stage, in looking at the general principles of the Bill, that I explain why it is that we are introducing these amendments.

2170 These amendments create new offences. They are offences relating to pornographic performances involving children. The amendments arise as a result of the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse, which we are currently considering and are in discussions for the purpose of having this extended to Gibraltar. All of the provisions of the Convention are already covered in our Crimes Act, except one specific provision in
 2175 article 21. Article 21 of the Convention deals with offences concerning the participation of a child in pornographic performances and requires legislative measures to be taken for conduct to be criminalised which relates to recruiting a child into participation in pornographic performances or causing a child to participate in such performances, coercing a child into such performance or profiting or otherwise exploiting a child, and also knowingly attending a pornographic performance involving the participation of children.

2180 Mr Speaker, we considered whether the existing provisions in our legislation and in the Crimes Act would be sufficient to encapsulate and cover the crimes which are envisaged and the offences which are envisaged by article 21 of the Convention. In particular, we considered three offences which might actually cover those provisions, and those offences would be causing a person to engage in sexual activity without consent, causing or inciting a child to engage in sexual activity – there is a provision about the
 2185 ages and, thirdly, pay for sexual services of a child. So it is possible that what we are trying to introduce by these offences is already covered through other offences, but they do not relate specifically to engaging in pornographic performance, and we felt that a crime such as this, an offence such as this, would be so heinous as to justify a requirement to have self-standing offences which we believe strengthen the statutory and criminal provisions in the criminal... the Crimes Act in particular.

2190 Therefore, we are introducing a number of offences which involve intentionally causing, encouraging
 or assisting a child to participate in a pornographic performance, using threats or coercion and doing that
 for payment or the expectation of payment, which takes care of the profiting side, which is mentioned in
 the Convention, and also knowingly attending a pornographic performance. Again, we consider that these
 2195 offences are so heinous that they justify a very serious punishment, and a maximum offence which we are
 setting out in the amendment that I am proposing is of 14 years. Mr Speaker, as I mentioned earlier, it is
 our intention, subject to everything being in place, to commence this by notice, these provisions, again
 subject to the amendments... to commence these by notice, which we intend to publish on 4th October.

But I should mention one other provision in relation to the Criminal Procedure and Evidence Act, Mr
 Speaker, and that is section 85.

2200 Section 85, Mr Speaker, deals with the right for a person arrested and held in custody in a police
 station, if he so requests, to consult a legal representative privately at any time; in other words, a statutory
 right to consult a lawyer. That provision was absolutely necessary and essential in the context of
 inferences from silences being drawn. It was absolutely necessary, because otherwise the statutory
 2205 scheme simply would not work. There is case law and there had been provisions that would suggest that
 you cannot draw inferences from silence unless somebody has a right to consult a lawyer. So that is the
 rationale for including that in the first place in the Act.

We are removing the provisions relating to inferences from silence, so there is no absolute necessity,
 for the statutory scheme to work, for this provision to be there, but we actually believe that it is a good
 thing. It is good for a statutory right to be given for persons held in custody to have access to legal advice,
 2210 to have the right to have access. It is not very different to what happens at the moment, where persons
 who are detained are informed that they are entitled to call a lawyer if they so choose, but this introduces
 a statutory right and a statutory right, once introduced, requires the provision of resources in order to
 make that right effective because, if what you would be saying to persons arrested is 'You have a right, *if*
 2215 you can afford it', then it undermines the right or if you have a right, unless you make provision available
 for that right to be effective in practice then section 85 *could* turn out to be ineffective.

Therefore, what this requires is the putting in place of a duty solicitor scheme. We wanted to put in a
 duty solicitor scheme in any event, regardless of the provision although requirement to do so as a result of
 the right to the inferences which would be drawn from silence. We have consulted the Bar Council, I have
 2220 consulted the Chairman and I have had a meeting with other representatives of the Bar Council.
 Following my initial consultation with the Chairman of the Bar Council, the Chief Executive of the
 Gibraltar Court Service sent out a circular to all chambers, inviting practitioners to put their names down
 for the scheme and setting out the payments which would be required. It is true that, following the issue
 of the circular, there has been some concern expressed by some practitioners as to the operation of this
 2225 and, in particular, in relation to the level of fees. I should say that the fees which are set out in the circular
 and which are intended to be introduced as from next Thursday are, for all intents and purposes, almost
 identical and taken from what actually applies in the United Kingdom.

There is a police station advice and assistance fixed fee scheme which was introduced with effect – or
 rather, this version and these rates – were introduced with effect from 14th July 2008 and, subject to some
 2230 tweeking because, although in the United Kingdom, they have a fee and five pence, we have rounded up
 the figures to produce the figures which are actually set out in the circular.

I acknowledge that there has been some concern and I can confirm today the commitment that I have
 given to the Bar Council which is to review these rates in conjunction with a review that we are currently
 undertaking in relation to the Legal Aid and reform of Legal Aid. It is important to state, Mr Speaker, that
 2235 this scheme has nothing to do with Legal Aid it is something separate. It is a fixed fee scheme which
 people would be automatically entitled to, if they so request, without the requirement to be means tested
 or any other qualification – so it is separate from the provisions of the Legal Aid Scheme – it is an
 absolute entitlement.

But of course the success of the Scheme depends on the availability of practitioners on the list.
 Therefore, the qualification that I mentioned earlier is that if, come next Thursday, we find that we do not
 2240 have lists, or insufficient numbers to make a scheme workable, then we will commence the rest but not
 section 85. We do not believe that it would be right, simply because this scheme is either not fully
 implemented, or not fully implementable, that we should leave everything else in abeyance and, therefore,
 what we would simply do is postpone the commencement of section 85. That would not mean that
 2245 persons who are arrested are not entitled to their lawyer. In the same way as happens today persons who
 are arrested would be entitled to call a lawyer of their choosing and to engage a lawyer, either for the
 purposes of a telephone consultation or attendance at the police station. That is what happens now, that is
 what will continue to happen whether or not section 85 is commenced because someone who is arrested
 can say, 'Well, I don't want to avail myself of the Scheme. I don't want the next person on the rota
 2250 system' – because the way this would work is that the Court Service would compile a list of practitioners,
 that list would be passed on to the Royal Gibraltar Police and the Royal Gibraltar Police would administer
 the list by simply calling the next person, if someone wants to avail themselves of this statutory right.

2255 So it is not the case that someone would say ‘Well, I want my own lawyer but I want him under the Scheme.’ If someone wants a lawyer under the Scheme, then the next, the duty solicitor who happens to be on duty on that particular day by being the next person on the list, that person would be called. If there is a call, either the same night or another night, then the next person on the list would be called... so it does not change what currently happens and the entitlement to legal advice at the police station but we simply wouldn’t be able to put in the statutory right accompanied by the duty solicitor scheme.

2260 We are committed to making this Scheme work but it clearly requires, and we trust will have, sufficient support from practitioners. I have consulted with the Chairman, I had a meeting with other members of the Bar Council yesterday, I gave them the commitment which I told them that I would be making also public today, so that it is crystal clear that these are rates that we will give you when we review the Legal Aid provisions.

Mr Speaker, on that basis, I commend the Bill to the House.

2265 **Mr Speaker:** Before I put the Question, does any hon. Member wish to speak on the general principles and merits of the amendment to the Bill.

The Hon. Daniel Feetham.

2270 **Hon. D A Feetham:** Mr Speaker, yes.

This Bill amends two seminal pieces of legislation, the Crimes Bill and the Criminal Procedure and Evidence Bill – or Acts, because they were passed last year. At the time I described them as the most significant reforms of our criminal justice system in over a hundred years and I stand by that comment.

2275 Mr Speaker, that does not mean that, seminal as they are, pieces of legislation cannot be improved upon and, indeed, my comments on this Bill that the Hon. the Minister for Justice presents to this House today. It could be that my comments – or the general categories in which I place them – could be transposed to other Bills, as follows.

2280 There is a category of case, for example – or category of amendments, for example – where, clearly, amendments improve upon the legislation that we have already brought to this House and passed by this House, albeit with our majority, the amendments in relation to, for example, Child in Need of Protection. I accept that those are improvements that the Hon. the Minister for Justice is making in relation to the Bill – the Act – that I presented to the House last year. Indeed, there may be European obligations and, although the Hon. the Minister for Justice has very fairly outlined the fact that the offences in relation to the amendments that he wishes to bring to the Bill, that he presented before this House, on child pornography, may well be covered already by the Crimes Bill, I accept that it is preferable to actually bring amendments to make it absolutely clear and make the point beyond doubt on something as important as that than not bring the amendments at all.

2285 There are other classes of Bill: there is a second class of case and the second class of case may well be cases where *we* had made a particular policy decision in relation to a particular area. Often, policy decisions are taken, some of them are often very finely balanced, arguments are very finely balanced: we take a particular view of a particular policy, *they* are obviously entitled to take a different view. That does not mean that their view is not as valid as ours. The point I am making is that these are very often fine decisions that one makes and I can assure the Hon. the Minister for Justice that if, in future, he brings to this House a Bill or a particular amendment to our legislation that falls on the other side of the policy decision that we have taken, simply because we took a different decision does not mean that we will necessarily oppose the Bill. When one recognises that there are very fine arguments in reaching that policy decision, for the sake of being constructive and for the sake of moving things forward, we would certainly, in appropriate cases, support the Government even though we reached a different decision when we were in Government.

2290 We certainly are not beyond being persuaded by the Hon. Minister or by the Government that the decision that we took, perhaps in the light of subsequent events, should no longer stand. I had hoped, in fact, that the amendments that the Hon. the Minister for Justice is moving in this Bill in relation to the Sexual Offenders Register might actually be one of those. I had hoped to, actually, be able to stand in this House today and say, having listened to the hon. the Minister for Justice, I am now persuaded that, in fact, the Register ought *not* to be made applicable retrospectively, but ought to be applicable prospectively. I have to say that, having listened to the Hon. the Minister for Justice, unfortunately I cannot agree with the arguments that he has advanced, for this reason: that you may have a very blatant – that probably is the wrong word... if you have been convicted of a sexual offence it is blatant – but you may have a serial sexual offender who has been convicted of a number of particularly heinous offences against children. Are we saying that simply because the conviction occurred ten years ago and the sentence has already been served, that he ought not to go on the Register simply because of the effect that it may have on his family. I do not think that that is a valid reason at all. Here our principal duty as legislators ought to be to protect society, to protect the community and, indeed, to protect also the victims of crime. In that kind of situation, I believe that the case would be compelling for inclusion on the Register, despite the fact that

- 2315 the conviction occurred ten years ago and that the sentence had already been served.
- 2320 There is a third class of case where the differences in policy, the differences in philosophy, the differences in approach between this side of the House and that side of the House are so marked, are so disparate and different that it is not possible, with all the will in the world, with all the desire on this side to obviously be constructive and conduct politics constructively, to support the Government. I am afraid that that applies in relation to the right to silence, although that is a misnomer because the Crimes Act or the Criminal Procedure and Evidence Act *did not* abolish the right to silence. It gave judges, in appropriate circumstances, the right to draw adverse inferences in the summing up to the jury. It did not abolish the right to silence.
- 2325 But it is also equally applicable to the requirements that we introduced in the Criminal Procedure and Evidence Act in relation to defence disclosure and I do not agree and I refer the hon. Gentlemen to the Criminal Procedure – well to section 241 and also 243 of the Criminal Procedure and Evidence Act – in a moment. I will take him to that in a moment, and I do not agree that it necessarily follows that because the hon. Gentleman opposite – the Government – take a different view on the right to silence that they necessarily have to take a different view to us in relation to advanced disclosure. I will explain my views in a moment.
- 2330 But, Mr Speaker, the Criminal Procedure and Evidence Act was a very carefully – in our respectful view – balanced piece of legislation that sought to balance the rights of the accused and the need to ensure that, as between the defence and prosecution, both parties enjoy, as much as possible, equality of arms in the trial process and also in the pre-trial process. It is also right that it sought to balance the rights of the accused with also the rights of the victims of crime and the rights of society to be protected against potential criminals. But this involved, Mr Speaker, a re-balancing of the trial system away from the accused in certain instances. Yes, it did and we, as a party, and the Opposition of the day, are unapologetic about it. Is it right that a judge, in appropriate circumstances, should be able to refer to the fact that the accused is relying on – I use it as an example, but it applies to other cases – an alibi defence at trial, when he failed to mention to the police in an interview ‘It could not have been me, because I was not there. I was with Mr x, or Mrs x, or somebody else.’ He could have mentioned that at a police interview. Is it right that a judge ought to be able to refer to the fact that he could have mentioned it at a police interview, did not do so, but relied on an alibi defence at trial? In our view, yes, it is. Is it right that the defence should have to provide advance disclosure to the prosecution in the same circumstances, that the prosecution has a duty to the defence? Yes, it is. Is it objectionable that the defence should be required to notify the prosecution of the names of defence witnesses, or the names of defence experts at trial, but before trial? No, it is not objectionable.
- 2340 Mr Speaker, leaving aside the question of the right to silence, which was very fully ventilated in this House on the merits of the Second Reading of the Criminal Procedure and Evidence Bill last year, there is absolutely no conceivable reason, in our view, why the defence should not be subject to the same advance disclosure requirements as the prosecution. It is about time the trial process was, in our view, conducted with cards facing upwards on the table.
- 2345 Mr Speaker, it is often said, in support of the position taken by the Government today on the obligations imposed on the defence for advanced disclosure that our system is adversarial, not inquisitorial; that we require the prosecution to prove its case and they should not be helped by disclosure made by the defence; that the defence *ought* to be able to ambush the prosecution at trial, at the eleventh hour with last minute defences.
- 2350 Mr Speaker, I have always felt – I can see that Mr Costa is nodding, as a defence lawyer, saying, ‘Yes, absolutely right’ – that this argument relegates the desirability of achieving the right outcome based on all the evidence, on an equality of arms basis, to secondary importance. That cannot, in our respectful view, be right.
- 2355 But can I take the hon. Gentleman to the Criminal Procedure and Evidence Act and, in particular, to section 241 and also 243. What section 241 does, which is the section on compulsory disclosure by the defendant, I just want to place the debate in context in relation to what the section means and also when it bites. Section 241.(1) actually says this.
- 2360 ‘Subject to subsection (2) to (4), this section applies if –
(a) this Part applies by virtue of section 238...’
- 2370 and that lists the categories of cases, summary, cases of indictment, in some cases, and
(b)
– this is important –
- 2375 ‘the prosecutor complies with section 239 or purports to comply with it.’

In other words, it only bites if the prosecutor has complied with 239.

Now, 239 then says:

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‘The prosecutor must –

(a) disclose to the defendant any prosecution material which has not previously been disclosed to the defendant and which might reasonably be considered capable of undermining the case for the prosecution against the defendant or of assisting the case for the defendant; or

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(b) give to the defendant a written statement that there is no material of any description mentioned in paragraph (a).’

It applies in circumstances where the prosecution has been provided with that advanced disclosure. It is not an obligation that applies across the board, but we also need to look at the scope and the extent of the obligation, because the Hon. the Minister for Justice said it necessarily follows, from the position that we have taken with relation to the right to silence, that these provisions ought also to go. I do not agree with that and, in fact, when one looks at the scope of the obligation on defence counsel for disclosure, one sees that they are eminently reasonable obligations on the defence.

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They only bite when the prosecution has provided, itself, disclosure. For the scope –

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Hon. G H Licudi: Could the hon. Member just give way on that point?

Hon. D A Feetham: Yes, of course.

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Hon. G H Licudi: The hon. Member says this only bites when the prosecution *itself* makes the disclosure, but the first words of section 239(1) are

‘The prosecutor *must*’.

In other words, it must be assumed that a statutory obligation on a prosecutor *will be complied with* and disclosure will be given by the prosecution. Therefore, section 241 would *always* bite.

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Are there any circumstances in which the hon. Member can think of where the prosecutor is going to ignore a statutory obligation to provide disclosure? Does the hon. Member not agree, in any event, that the prosecutor *currently* has an obligation to provide that disclosure? What we are having now is a statutory obligation, which we are retaining; we are not intending to... but the suggestion that section 241 and the obligation to provide compulsory disclosure by the defendant is somehow *conditional* on something... It is not conditional on anything, because there is a statutory right, which the prosecutor *must* comply with.

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Hon. D A Feetham: Mr Speaker, my understanding of the position is that it is not across the board that the prosecutor... but it makes absolutely no difference to the point I am making.

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Section 241 applies where the prosecutor complies with section 239 or purports to comply with it (*Interjection by Hon. G H Licudi*) Right. It is a provision where there is reciprocity on the part of the defence to something that the prosecution has already done. In other words, there is an obligation on the prosecution to provide disclosure. The prosecution provides that disclosure, there is then an obligation on the defence, for the defence to provide disclosure, but we have also got to analyse... so it is not a situation, we are not talking about a situation here where defendants are required to do something effectively unilaterally in circumstances where the other side to that particular case has provided no disclosure itself. It is predicated on that basis, but we also need to analyse what is the disclosure? Is it *reasonable* disclosure? How onerous is the disclosure on the defence? I think, if one looks at section 243(1) contents of the defence, and in fact, the disclosure is the defence statement. That is the disclosure the defence provides.

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The defence statement is then 243:

‘For the purpose of this Part a defence statement is a written statement –

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(a) setting out the nature of the defendant’s defence, including any particular defences on which he intends to rely;’

That does not necessarily have an impact on the – it does not at all in our view – have an impact on a defendant’s right not to take the witness stand, for example. Because if directed to a situation – just to give you an example – the defence may be, ‘Well, it is not murder, but it is manslaughter by reason of the fact that diminished responsibility applies’. That does not affect the defendant’s rights in terms of his ability not to go in the witness box, for example. We do not see anything wrong with the fact that a defendant is obliged to disclose to the prosecution the fact that the defendant is relying on a defence of diminished responsibility.

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2440 ' (b) indicating the matters of fact on which he takes issue with the prosecution;'

But what are the facts on which he takes issue with the prosecution? Version of events, setting out the case of each matter, why he takes issue with the prosecution, setting out particulars of matters of fact on which he intends to rely for the purposes of his defence... Again, it does not impact on his ability not to give evidence at trial, he may not give evidence at trial but he may have somebody else giving evidence and he is relying on the facts of another witness. What is wrong with a defendant's providing advanced disclosure of that?

2450 ' (e) indicating any point of law (including any point as to the admissibility of evidence or an abuse of process) which he wishes to take...'

In other words, these are arguments of law that a defence counsel may ambush a prosecution at the eleventh hour and it is dealing with advanced disclosure of that. Then, in relation to 245, all that 245 – which is another section that is being repealed as a consequence of this Bill – all 245 actually does is deal with the notification of the intention to call defence witnesses, and 246 – which is another section that is being repealed – deals with notification of the names of experts instructed by the defendant. I cannot see why advanced notification of witnesses the defence wants to call or the name of an expert that the defence wishes to rely upon, why that has an impact on the right to silence. I do not. I just do not agree that it has an impact on the right to silence. In fact, that argument is even clearer than the arguments that I have postulated in relation to section 243.

2460 Mr Speaker, I do not agree that one necessarily follows from the other and I do think that these are obligations that do balance the process up in terms of the defence and also the prosecution in circumstances where the prosecution has an obligation to provide the defence with disclosure. It is often said that the reason why... it is often said against this question of advanced disclosure and also, indeed, in relation to the adverse inferences that can be drawn – provisions allowing adverse inferences to be drawn from the exercise of the right to silence – that is necessary because the police somehow have *huge* resources at their disposal, whereas defendants do not. Now, Mr Speaker, in this jurisdiction – it is an argument which has been deployed in the United Kingdom – in this jurisdiction I am not sure that that is an apposite example and it is certainly *not true* across the board.

2470 Mr Speaker, we have a very small police force; we have a small prosecuting team, as part of Her Majesty's Attorney General's Chambers. A team, both in terms of the police and also the prosecution, that does not have the resources, does not have the expertise that is available to counterparts in the United Kingdom. The hon. Gentleman changed, for example, the Legal Aid rules recently in order to allow complex fraud cases, effectively commercial funding of those cases in terms of lawyers here and also lawyers in the UK. There is a judgment from the Chief Justice dating some two years back, which *already* allowed the commercial... the outside counsel to charge commercial rates in criminal cases – (*Interjection by Hon. G H Licudi*) ...but we do have a situation – (*Interjection by Hon. G H Licudi*)

2480 Yes, but the hon. Gentleman is making – just for the benefit of the public – the point that it is not right to have outside counsel being able to charge commercial rates in criminal cases, but not Gibraltar counsel and Gibraltar lawyers. I accept that entirely, but of course, that is not the effect. The amendments that the hon. Gentleman made to the Legal Aid rules did not cure that particular loophole, because all it did was – in complex criminal cases it did, but not in relation to all the other cases. That is certainly wrong.

2485 What we have is a situation... what we have in very complex fraud cases, for example, you have defendants now being able to charge hundreds of thousands of pounds – or lawyers being able to charge hundreds of thousands of pounds, both local lawyers and, indeed, accused having the benefit of some of the best QCs in the United Kingdom, coming to defend them at taxpayers' expense on their cases. Indeed, in relation to the effect of the judgment by the Chief Justice a couple of years ago, in non-fraud cases, again that is also possible. We do have a situation where, habitually, you have outside counsel coming into Gibraltar, very experienced counsel, specialist counsel, top counsel, coming to Gibraltar and being used in order to defend the accused in criminal cases.

2490 The point I am making, Mr Speaker, is that that is all fine but I do not accept the argument that the system is weighted in favour of the police or the prosecution in Gibraltar across the board. That is not the case and that is often an argument that is deployed in favour of not having advance disclosure by the defence in criminal cases.

2495 Mr Speaker, our Bill –

Hon. G H Licudi: Would the hon. Member give way on that point.

I acknowledge that the hon. Member simply says that is '*an* argument' that *can* be deployed. The hon. Member will not have heard me deploying that argument during the course of this debate for the purpose of presentation of this particular Bill.

2500 It is *not* our position that, because of that argument, these provisions ought to go. Our position, as I

2505 have explained, is that we consider that they are inconsistent with the other amendment we are doing, removing the inference from silence. We may take a different view but we consider these to be consequential provisions on that. We have no point of principle in relation to this matter, no point of policy, but we consider that the scheme, as it stands, without the inference from silence, with the right to silence, would simply be unwelcome. This is the position.

Hon. D A Feetham: Well, I am very grateful.

2510 The arguments that I have outlined and that I have come prepared to meet in the context of the merits of this particular Bill bearing in mind that, in fact, the provisions about advanced disclosure did not form part of the substantive debate on the second reading of the Criminal Procedure and Evidence Act –

Hon. G H Licudi: Why is it a consequence of that?

2515 **Hon. D A Feetham:** – because, as I recall, the Opposition then did not actually take a position in relation to advanced disclosure. Their position was... but I came here, obviously, to also meet the arguments that have been advanced in the United Kingdom by defence counsel in relation to this and also by academics like Professor Zander, who argued against advanced disclosure on precisely that basis but I am very grateful to the Hon. the Minister for Justice for clarifying that point.

2520 Mr Speaker, in summary, our Bill, which was passed in Parliament last year and became the Criminal Procedure and Evidence Act – and I concentrate on that because, really, most of the controversy is in relation to that – very carefully balanced the rights of the accused and the need to ensure that the accused did not hide behind a system heavily stacked in their favour and away from protection of society and also from protecting victims of crime.

2525 I think that this is a retrograde step and, therefore, we will certainly be voting against the Bill.

Mr Speaker: Does any other hon. Member wish to speak on the general principles and merits of the Bill?

Does the mover of the Bill wish to reply?

2530 **Hon. G H Licudi:** Yes, Mr Speaker.

2535 The hon. Member starts his contribution – I am grateful for his contribution, which is positive and constructive, where it has been possible for him to be positive and constructive, but clearly highlighting the fundamental difference that there is in terms of policy as between that side of the House and this side of the House... He starts by saying that these two Bills, taken together, represent, as he stated when he originally introduced the Bills last year, the most significant reforms of the criminal justice system.

We recognise that is certainly the case and we acknowledge all the work that was done in putting this in place before December 2011. It was not possible, for reasons that the hon. Member clearly knows, to have introduced this before December 2011. Therefore, it fell to us to do so subsequently.

2540 But these are really monumental changes to the way the criminal justice system has worked in Gibraltar for many, many years. Because they are monumental changes, it has taken, unfortunately, this long to get it right and be in a position to actually commence this. It is not just a question of time, it has taken a lot of effort by a lot of people to get systems in place, in particular Royal Gibraltar Police, Customs and other authorities, who have all been consulted and been part of the process in order to get training up to speed, the processes up to speed, to make sure that the drafting of the codes of practice was in place and could be published. So it has been – because it is such a significant reform – a monumental effort and I want to acknowledge that effort, firstly by that side in bringing this to the House in the first place and, subsequently, since December when all the agencies and professionals that we have dealt with in getting this to the stage where we are today.

2550 **Hon. D A Feetham:** Mr Speaker, I want to associate myself entirely with the Hon. the Minister for Justice's words on that point because it really is a monumental effort by everybody concerned and I acknowledge entirely the work did not finish when we presented the Bills to the House last year.

2555 **Hon. G H Licudi:** I am grateful for that.

Mr Speaker, there are really two fundamental points – perhaps three – that the hon. Member makes.

2560 The first one is in relation to the sex offenders' registry, in relation to the possibility of retrospective effect. I mentioned that we have carried out consultation; this is a matter that we have deeply considered. It is not something that one does lightly without consideration and giving the matter deep thought. We are clearly on the same side when it comes to protection of victims, when it comes to protection of children, when it comes to protection of vulnerable persons in our society and we need to make sure that everything possible and everything necessary is done. But at the same time, the hon. Member has spoken of balance: we also have to balance rights of other people and that is precisely what we have done.

2565 As the hon. Member well knows, the general principle in relation to the criminal law generally is that it should not have retrospective effect and that is generally applied specifically in relation to offences. You should not introduce an offence *now* in relation to acts that were done two years ago or three weeks ago, where the person perpetrating those acts did not know that he may have been committing an offence, at the time that whatever person has committed a crime – which is now a relevant offence – these provisions in relation to the registry would not have been there. We are not just thinking – and in particular to emphasise – we are not just thinking of the right of those particular persons but the rights of other people around that person who would be affected and after – I can honestly say to the hon. Member – very, very deep and careful consideration, we felt that the *right* thing in relation to the Register was to do it prospective rather than retrospective, but with the exception that we did not want to, let me put it colloquially, ‘let off the hook’ people who have been convicted recently and who are currently serving a prison sentence. That is the reason why we have done that.

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2575 In relation to the right to silence, we clearly disagreed at the time of the Second Reading of the Bill in July 2011, we disagree now, fundamentally on whether these provisions abolish the right to silence or not. We believe that they clearly do when you have inferences which can be drawn from silence, then that person no longer has the absolute right *without consequences* to remain silent. A right is a right without detriment. Where detriment is included, then that no longer becomes a right and that right goes out and is abolished.

2580 I acknowledge that that is a matter that we disagree on but we were particularly conscious of, as I mentioned earlier, the provisions of the report which was made by the Royal Commission in the United Kingdom in 1993, which was made to Parliament, and we consider that they put together some very, very powerful arguments in their recommendation *against* making the changes which this Bill actually introduced causing those inferences and it may well be worth recalling because it is important to understand why we have this right and why we feel it is important to retain these rights. The arguments in favour of retaining the right to silence which was put by the Royal Commission in the report were:

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2590 (1) That circumstances of police interrogation are such that there can be no justification for requiring a suspect to answer questions when he or she may be unclear about both the nature of the offence which he or she is alleged to have committed and about the legal definitions of intent, dishonesty etc, upon which an indictment may turn.

2595 (2) Innocent suspects’ reasons for remaining silent may include, for example, protection of family or friends, a sense of bewilderment, embarrassment or outrage, or a reasoned decision to wait until the allegation against them has been set out in detail and they have the benefit of considered legal advice.

(3) Members of ethnic or other minority groups may have particular reasons of their own for fearing that any answers they give will be unfairly used against them.

(4) There is a risk that if the police were allowed to warn suspects to decline to answer their questions that they face the prospect of adverse comment at trial, such a power would sometimes be abused.

2600 (5) It is now well established that certain people, including some who are not mentally ill or handicapped, will confess to offences they did not commit.

(6) The threat of adverse comment at trial may increase the risk of confused or vulnerable suspects making false confessions.

2605 We felt at the time, and we continue to feel, that those are powerful arguments. Not that we endorse or condone or suggest that, in relation to one of the points that was made about the abuse by the police, that we fear that that is actually happening in Gibraltar –

Hon. D A Feetham: For the avoidance of doubt.

2610 **Hon. G H Licudi:** – for the avoidance of doubt that that maybe happening in Gibraltar. I was simply reading what the arguments put forward by the Royal Commission, but that is not a concern that we have but we believe, on balance, there is a powerful argument.

2615 So those are the reasons why we are removing those provisions which relate to the right to silence and inferences from silence. So our position at the second Bill, and subsequently in Government at the Second Reading of the Bill, subsequently in Government when we were considering the amendments that needed to be made to this Act in order to put our policy in place, was that we should simply remove those five or six sections that relate to inferences from silence.

2620 We felt, well, that is what we fundamentally disagree with, then we remove those provisions. It was then, during the course of the process of the amendments, it was brought to our attention that there are these other provisions relating to the disclosure obligations. What do we do with them? Do we leave them; do we require the defence and provide that balance that the hon. Member has alluded to? We did not consider, as I said in my intervention earlier, that there were *independent* arguments why that balance does not need to be addressed, there is no objection in principle to the defence putting forward a defence statement... But we felt these provisions would simply be unworkable.

I explained earlier the provisions, they arise in relation to a response by the prosecution, which is a

2625 statutory requirement and duty by the prosecution, because it says that ‘the prosecution *must*’. Therefore, we must work on the assumption and the basis that the prosecution *will* in Gibraltar comply with all statutory duties and therefore this will also arise. What we felt was that it was simply unworkable where there is a right to silence and no inference can be drawn from that fact.

2630 It is unworkable because, if the person has that particular right, the right not to say anything at all and no inferences can be drawn from that exercise, how can he then be obliged to set out his defence in advance? He has a right to silence, he has a right to be silent throughout the whole trial process and, in relation to the defence, he even has a right to say, ‘Well, I don’t say anything at all, I simply put the prosecution to proof’. They have the burden of proof: the standard, as we know, is beyond reasonable doubt, and it is – not often the case but it is certainly not unusual – that the defendant simply gets up at
2635 some stage during the trial process, sometimes in the middle of the case or when the prosecution has finished his case, and says ‘The prosecutor’s case simply doesn’t stand up to scrutiny: it doesn’t add up to prove beyond reasonable doubt. I didn’t have to say anything, I don’t say anything and I just leave it in the hands, first, of the court in a submission at half way, or leave it in the hands of the jury.’

2640 We consider that the changes we are making in relation to disclosure are merely consequential but necessary because of the removal of the inferences from silence.

We do not consider that, in Gibraltar, we have a system which is so unbalanced as to be an unfair system, a system which creates an unfair advantage to those who are charged with criminal offences. We *all* want to see the guilty convicted, but it is a *very, very* serious matter for innocent people to be found
2645 guilty as a result of something which they may have said, or an inference that can be drawn or an act which they may have taken, and we believe it is absolutely necessary and fundamental that we protect those rights of the innocent who may be falsely charged, who may have said something perhaps out of order, perhaps because of the circumstances. It is fundamental that those rights also be preserved and, for all those reasons, Mr Speaker, we will stick with the amendments that we have proposed.

2650 **Mr Speaker:** I now put the Question, which is that a Bill for an Act to amend the Criminal Procedure and Evidence Act 2011 and the Crimes Act 2011 be read a second time.

Those in favour. (**Government Members:** Aye.) Those against. (**Opposition Members:** No.) Carried by Government majority.

2655 **Clerk:** The Criminal Justice (Amendment) Act 2012.

2660 **Criminal Justice (Amendment) Bill 2012**
Committee Stage and Third Reading to be taken at this sitting

Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be
2665 taken today, if all hon. Members agree.

Mr Speaker: Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

2670 **Mr Speaker:** The Committee Stage and Third Reading will be taken today.

Chief Minister (Hon. F R Picardo): Mr Speaker, I am conscious of the fact that Members are able to come in and out of the Chamber, but that you and the Clerk are not. Is that a convenient moment to recess for a few minutes.

2675 **Mr Speaker:** That is very convenient and very considerate of the Hon. the Chief Minister. The House will recess for 10 minutes. Thank you.

The House adjourned at 7.10 p.m. and resumed its sitting at 7.25 p.m.

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COMMITTEE STAGE

2685 **Broadcasting Bill 2012**
Births and Deaths Registration (Amendment) Bill 2012
Criminal Justice (Amendment) Act Bill 2012

Clerk: Committee Stage and Third Reading, the Hon. the Chief Minister.

2690 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause: the Broadcasting Bill 2012; the Births and Deaths Registration (Amendment) Bill 2012; the Criminal Justice (Amendment) Act Bill 2012.

2695 *In Committee of the whole Parliament.*

Broadcasting Bill 2012
Clauses considered and approved

2700 **Clerk:** A Bill for an Act to make provision for the Gibraltar Broadcasting Corporation and to transpose into the law of Gibraltar Council Directive 2010/13/EU of 10th March 2010 of the European Parliament and of the Council on the co-ordination of certain provisions laid down by law, regulation and administrative action in member states concerning the protection of audiovisual media services, Supplementary Directive 2007/65/EC of the European Parliament and of the Council of 11th December 2007, and for connected purposes.

2705 Clause 1.

2710 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I would move to place before the House and hon. Members in Committee the amendments set out in my letter of 26th September 2012. I think all of them have been ventilated in debate and I would move to move the Bill with all of those amendments.

Mr Chairman: Is the Opposition content with that procedure to avoid having to read each one?

2715 **Hon. D A Feetham:** Yes, Mr Speaker.

The Clerk has already spoken to me about this and we are content for the proposed amendments to be read as if they are part of the Bill, not only in relation to this one but also in relation to the Hon. the Minister for Justice's Bill later on.

2720 **Mr Chairman:** Thank you.

In that case, all the proposed amendments contained in the Hon. the Chief Minister's letter to me dated 26th September will be deemed to have been formally tabled at the Committee Stage and *Hansard* will record the letter as part of the record of *Hansard*. Correct?

2725 **Hon. Chief Minister:** I am obliged to the Members opposite.

Mr Chairman: Great.



THE CHIEF MINISTER

6 CONVENT PLACE

GIBRALTAR

26th September 2012

The Hon H K Budhrani Q.C.
Speaker
Gibraltar Parliament
156 Main Street
Gibraltar

Dear Mr Speaker

AMENDMENTS TO BROADCASTING ACT 2012 [B. 11/12]

I beg to give notice that I shall be moving the following amendments to the Bill for a Broadcasting Act 2012 during Committee Stage, the amendments serve six main purposes.

In order to assist members, I am setting out the reasons for the most important amendments in this letter in anticipation of the debate on the Bill on Friday afternoon. Although there are quite a number of amendments they are mostly technical in nature and driven by advice of draftsman for the reasons more specifically set out below.

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First, they provide for the revocation of the current AVMS regulations by importing provisions contained in those regulations into this Act and harmonising the language used in this Act with the drafting style of those Regulations. It has been decided to do this in order to ensure that there is no confusion as to whether in a particular circumstance a person is covered by the Act or the regulations and at the same time to maintain a sense of continuity regarding the use of language which has been proven to work. The majority of the amendments fall into this category both in terms of numbers and volume.

Second, the amendments remove references to the Transmission Standards Directive and to issues relating to conditional access. On further consideration it is the Government's view that these areas would, due to their technical nature, be best dealt with by subsidiary legislation.

Third, the amendments provide for a greater transparency and independence in the appointment of the GBC Board. There is a proposed amendment which requires that the Chief Minister consult with the leader of the opposition before making any such appointment and there is a further amendment which removes from the Minister the power to appoint a particular auditor himself.

Fourth, further to there being a distinct possibility that operators outside Gibraltar may wish to use Gibraltar as a base for their

broadcasting amendments are included making it clear that use of the Digital Terrestrial Network falls within the scope of the Bill.

Fifth, there are amendments included which either move powers and functions currently drafted as being in the hands of the Minister or the Minister and the Authority to being directly under the sole control of the Authority. This includes removing the need for the Authority to require the consent of the Minister before it acts in certain circumstances. It is intended that this will allow for greater independence in the regulation of the Act.

Sixthly, and finally, there are amendments which correct certain typographical, formatting and grammatical issues which have been noted since the Bill was first published. It is not intended that any of the amendments which fall within this category substantially change the content of the Bill, rather that they make it clearer.

The amendments are-

- (1) in the long title after "11 December 2007" insert "amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities";

[This amendment corrects the reference to the Directive in the Long Title to include its full name.]

- (2) in clause 2(1) insert the following definitions in the appropriate place in alphabetical order-

"DTT" means the national Digital Terrestrial Television network";

"Non-European works" means works other than works within the definition of "European works";

"TFEU" means the Treaty on the functioning of the European Union";

[These amendments insert definitions which are used elsewhere in the Bill.]

- (3) in clause 2(1) in the definition of "audio media service" for paragraph (b) substitute-

"(b) audio commercial communication,";

[This amendment and amendment (4) correct a formatting error where two definitions were merged into one.]

- (4) in clause 2(1) for the paragraph which appears after paragraph (b) of the definition of "audio media service" substitute the following definition (which should appear in alphabetical order before the definition of "audio media service")-

"audio commercial communication" means sounds which are designed to promote, directly or indirectly, the goods or services or image of a natural or legal entity pursuing an economic activity and includes radio advertising and sponsorship,";

- (5) in clause 2(1) delete the definition of "audiovisual commercial communication" and insert after the definition of "audio commercial communication" the following definition-

"audiovisual commercial communication" means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity where such images accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes and includes television advertising, sponsorship, teleshopping and product placement,";

[This amendment imports a definition from the AVMS Regulations.]

- (6) in clause 2(1) in the definition of "AVMS Directive"-

(a) for "Directive 2010/13/EU of The European Parliament and of The Council of 10 March

2010" substitute "Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010";

- (b) after "audiovisual media services" insert ", as amended from time to time";

[Amendment (a) corrects typographical errors relating to the use of capital letters. Amendment (b) makes clear that the use of the term AVMS directive includes any future amendments that may be made to it.]

- (7) in clause 2(1) in the definition of "Commission" for "Commission of the European Communities" substitute "European Commission";

[This amendment and amendments (8) and (9) correct typographical errors.]

- (8) in clause 2(1) in the definition of "editorial responsibility" for "election" substitute "selection";

- (9) in clause 2(1) in the definition of "European works" in paragraph (b) for "sub-regulation" substitute "subsection";

- (10) in clause 2(1) in the definition of "media service provider" after "audiovisual media service" insert "(including but not limited to DTT services)";

[This amendment makes clear that provision of DTT services falls into the definition of "media service provider".]

- (11) in clause 2(1) delete the definition "Transmission Standards Directive";

[This amendment relates to the matter I mentioned above regarding the preference to deal with matters under that directive by means of secondary legislation.]

- (12) after clause 2(1) insert the following-

“(1A) For the purposes of the definition of the term “European works” in subsection (1), the following provisions shall apply–

- (a) the application of the provisions in paragraphs (b) and (c) of the definition shall be conditional on works originating in the European Union not being subject to discriminatory measures in the third country concerned;
- (b) the works referred to in paragraphs (a) and (b) of the definition are works mainly made with authors and workers residing in one or more of the places referred to in those paragraphs provided that they comply with one of the following three conditions–
 - (i) they are made by one or more producers established in one or more of those places;
 - (ii) the production of the works is supervised and actually controlled by one or more producers established in one or more of those places;
 - (iii) the contribution of co-producers from those places to the total co-production costs is preponderant and the coproduction is not controlled by one or more producers established outside those places;
- (c) works that are not European works but that are produced within the framework of bilateral co-production agreements concluded between Gibraltar or Member States and third countries shall be deemed to be European works provided that–

(i) the co-producers from the European Union supply a majority share of the total cost of production; and

(ii) the production is not controlled by one or more producers established outside the European Union.

(1B) All media service providers under Gibraltar jurisdiction shall comply with this Act and with all other laws in force in Gibraltar applicable to media services intended for the public.

(1C) For the purposes of this Act, the media service providers under Gibraltar jurisdiction are any of the following—

(a) those established in Gibraltar in accordance with subsection (2);

(b) those to whom subsections (3) or (4) apply.”;

[This amendment imports provisions from the AVMS regulations as to the definition of “European works” and makes it clear which media service providers fall within the Act and within Gibraltar jurisdiction.]

(13) in clause 2(2) for paragraphs (c) and (d) substitute-

“(c) if a media service provider has its head office in Gibraltar but decisions on the audiovisual media service are taken in a third country, or vice-versa, it shall be deemed to be established in Gibraltar, provided that a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in Gibraltar; or

(d) if the media service provider is established in a third country and is licensed under the provisions of this Act (including where it has been licensed to provide a broadcasting service on DTT (which may include Non-European works)).”;

[This amendment corrects a typographical error in (c) and clarifies that (d) includes providers of DTT services licensed in a third country.]

(14) in clause 2(4) for "EC Treaty" substitute "TFEU";

(15) after clause 2(5) insert the following-

"(6) This Act does not apply to audiovisual media services which-

- (a) are intended exclusively for reception in third countries; and
- (b) are not received with standard consumer equipment directly or indirectly by the public in Gibraltar or in one or more Member States.

(7) For the avoidance of doubt the GBC is a media service provider under Gibraltar jurisdiction within the meaning of this Act and as such is subject to the provisions of this Act subject to any exemptions included within this Act.;

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[This amendment clarifies the scope of the Act to (a) exclude certain broadcasts intended for third countries only and not receivable in Gibraltar or a Member State and (b) include the GBC.]

(16) in clause 6(1) for "respectively upon them" substitute "upon it";

[This amendment and amendments 17, 18, 19 and 20 correct typographical errors etc.]

(17) in clause 6(1)(a) for "either of them" substitute "it";

(18) the formatting of clause 8(1) shall be as follows-

"8.(1) Subject to the following provisions of this section, no information with respect to a particular business which-

(a) has been obtained under or by virtue of this Act; and

(b) relates to the private affairs of any individual or to any particular business,

shall during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.”;

(19) in clause 8(2)(e) for “Community” substitute “Union”;

(20) delete clause 12(2) and remove the label “(1)” from the remaining subsection;

(21) in clause 13(1)-

(i) in subsection (1) for “, the Minister may, after consultation with the Authority,” substitute “the Authority may”;

(ii) in subsection (1) delete “the Minister or”;

(iii) in subsection (1) delete “or both, as the case may be,”;

(iv) in subsection (1) for “their respective” substitute “its”;

(v) in subsection (2) for “the Minister may, after consultation with the Authority” substitute “the Authority may”;

[These amendments remove powers and functions from the Minister and allow them to remain solely in the hands of the Authority.]

(22) in clause 13(2) for “Community” substitute “Union”;

(23) in clause 14-

(a) delete “, with the consent of the Minister,”;

- (b) for "Community" substitute "Union";

[This is an example of an amendment where a requirement for Ministerial consent in the operation of a power by the Authority is removed.]

- (24) in clause 15(1) for the words upto and including "Gibraltar" substitute "A media service provider under Gibraltar jurisdiction";

[This amendment is to bring the Bill closer to the language used in the AVMS regulations.]

- (25) in clause 15(2) for "the Act" substitute "this Act";

[This amendment and amendments 26-33 correct various typographical, grammatical and formatting issues.]

- (26) in clause 15(5) for "Licence" substitute "licence";

- (27) in clause 16(2) for "The provisions of" substitute "For the avoidance of doubt,";

- (28) in clause 18(1) for "do all that it can to secure" substitute "ensure";

- (29) in clause 18(2)(a)(i) delete "(a)";

- (30) in clauses 18(2)(c) and (d) for "them" on the three occasions it appears substitute "it";

- (31) in clause 18(2)(c) for "(a)(iii)" substitute "(a)(ii)";

- (32) in clause 18(2)(d) the words which appear after sub-paragraph (ii) should be reformatted to be text following from sub-paragraph (d);

- (33) the formatting of clause 18(3) shall be as follows-

"(3) Where the Authority-

- (a) revokes the award of any licence in pursuance of subsection (2)(b), or

- (b) determines that any condition imposed by him in relation to any licence in pursuance of subsection (2)(c) has not been satisfied,

any provisions of this Part relating to the awarding of licences of the kind in question shall (subject to subsection (4)) have effect as if the person to whom the licence was awarded or granted had not made an application for it.”;

- (34) in clause 18(7) for-

- (a) "the Minister" substitute "the Authority";
- (b) "they" substitute "it";

[This is an example of a power invested in the Minister being transfessed to the Authority.]

- (35) in clause 19(4) for "This section" substitute "For the avoidance of doubt, this section";

[This amendment and amendments 36-38 correct various typographical and grammatical issues (including bringing the provisions closer to the language used in the AVMS regulations.)

- (36) in clause 20(6) for "Subsections" substitute "For the avoidance of doubt, subsections";

- (37) in clause 21(6) for "licence holder" substitute "licensee";

- (38) in clause 22-

- (a) in subclause (1) for "licensed or authorised under this Act, including the GBC," substitute "under Gibraltar jurisdiction";
- (b) in subclause (2) after "shall apply" insert "as if the failure to comply with the code of practice were a failure to comply with a licence condition";

- (39) in clause 23 for "codes of practice issued under that Schedule shall be incorporated into any issued under section 22 of this Act" substitute "code of practice issued under that Schedule shall be deemed to have been issued under section 22 of this Act";

[This amendment clarifies the effect of a code issued under a Schedule rather than under section 22. It was thought that the previous language was confusing.]

- (40) in clause 27 for "licensed or authorised under this Act, including the GBC," substitute "under Gibraltar jurisdiction";

- (41) after clause 28 insert the following clause-

"Accessibility.

28A. The Authority shall encourage media service providers under Gibraltar jurisdiction to ensure that their services are progressively made accessible to people with disabilities affecting their sight or hearing or both.;

[This is a requirement under the AVMS directive.]

- (42) for clause 29 substitute-

"Audiovisual commercial communications.

29.(1) The following are prohibited in Gibraltar-

- (a) surreptitious audiovisual commercial communication;
- (b) all forms of audiovisual commercial communications for cigarettes and other tobacco products;
- (c) all forms of audiovisual commercial communications for medicinal products and medical treatment available only on prescription.

(2) Media service providers under Gibraltar jurisdiction shall ensure that the audiovisual commercial communications they provide-

- (a) are readily recognisable as such;
- (b) do not use subliminal techniques;
- (c) do not—
 - (i) prejudice respect for human dignity;
 - (ii) include or promote any discrimination on grounds of sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
 - (iii) encourage behaviour prejudicial to health or to safety;
 - (iv) encourage behaviour prejudicial to the protection of the environment.

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(3) Audiovisual commercial communications for alcoholic beverages shall comply, in addition to subsection (2), with the following criteria, that is to say, they shall not—

- (a) be aimed specifically at minors ;
- (b) encourage immoderate consumption of alcoholic beverages.

(4) Audiovisual commercial communications shall not cause moral or physical detriment to minors, and shall therefore comply with the following criteria for their protection, that is to say, they shall not—

- (a) directly exhort minors to buy or hire a product or a service by exploiting their inexperience or credulity;
- (b) directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;
- (c) exploit the special trust minors place in parents, teachers or other persons;

- (d) unreasonably show minors in dangerous situations.

(5) The Authority shall encourage media service providers under Gibraltar jurisdiction to develop codes of conduct regarding inappropriate audiovisual commercial communications, accompanying or included in children's programmes, of foods and beverages containing nutrients and substances with a nutritional or physiological effect excessive intakes of which in the overall diet are not recommended, and such nutrients and substances shall include, in particular, fat, trans-fatty acids, salt/sodium and sugars.

Basic requirements on television advertising and teleshopping.

29A.(1) Television advertising and teleshopping shall—

- (a) be readily recognisable and distinguishable from editorial content; and
- (b) without prejudice to the use of new advertising techniques, be kept quite distinct from other parts of the programme by optical, acoustic or spatial means or any combination of those means.

(2) Isolated advertising and teleshopping spots, other than in transmissions of sports events, shall remain the exception.

Insertion during programmes.

29B.(1) Television advertising and teleshopping may be inserted during a programme provided that they are inserted in such a way that—

- (a) the integrity of the programme, taking into account natural breaks in and the duration and nature of the programme ; and

(b) the rights of the rights holders,

are not prejudiced.

(2) The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising or teleshopping once for each scheduled period of at least thirty minutes.

(3) The transmission of children's programmes may be interrupted by television advertising or teleshopping once for each scheduled period of at least thirty minutes, provided that the scheduled duration of the programme is greater than thirty minutes.

(4) No television advertising or teleshopping shall be inserted during religious services.

Teleshopping for medicinal products or treatment.

29C. Teleshopping for medicinal products which are subject to a market authorisation within the meaning of Directive 2001/83/EC of 6 November 2001 on the Community Code relating to medicinal products for human use, as the same may be amended from time to time, as well as teleshopping for medicinal treatment, shall be prohibited.

Television advertising and teleshopping for alcoholic beverages.

29D. Television advertising and teleshopping for alcoholic beverages shall comply with the following criteria, that is to say, they shall not—

- (a) be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- (b) link the consumption of alcohol to enhanced physical performance or to driving;

- (c) create the impression that the consumption of alcohol contributes towards social or sexual success;
- (d) claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- (e) encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light; and
- (f) place emphasis on high alcoholic content as being a positive quality of the beverages.”;

[This amendment imports provisions from the AVMS regulations.]

(43) for subclauses (3) to (5) of clause substitute-

“Teleshopping windows.

30A. Teleshopping windows shall be clearly identified as such by optical and acoustic means and shall be of a minimum uninterrupted duration of 15 minutes.

Television broadcasts intended only for Gibraltar.

“30B. Without prejudice to section 72B, and with due regard for European Union law, the Authority may lay down conditions other than those laid down in section 29B(2) to (4) and section 30 in respect of television broadcasts intended exclusively for reception in Gibraltar and which are not capable of being received, directly or indirectly, in one or more Member States.”;

[This amendment imports provisions from the AVMS regulations.]

(44) in clause 31

(a) after subclause (1)(a) insert the following paragraph-

“(aa) viewers shall be clearly informed of the existence of a sponsorship agreement.”;

- (b) in subclause (1) for "it" the first time it appears in paragraphs (b) and (c) substitute "they";

[This amendment imports an AVMS provision and corrects a grammatical error.]

- (45) in clause 33-

- (a) the words up to and including paragraph (b) shall be renumbered as subclause (1) of that clause with its corresponding paragraphs (a) and (b);

- (b) for paragraph (c) substitute the following subclause-
“(2) Sections 29B(2), (3) and (4), section 30 and section 30A shall not apply to these channels.”;

[This amendment corrects a formatting error.]

- (46) in the newly numbered clause 33(1)(a) for “teleshopping, and advertising ;” substitute “teleshopping and advertising;”;

[This amendment corrects a formatting error.]

- (47) in the newly numbered clause 33(1)(b) for the semi-colon substitute a full-stop;

[This amendment corrects a typographical error.]

- (48) in clause 35

- (a) in subclauses (1) and (2) delete the words “under this Act, including the GBC,”;
- (b) in subclauses (1) and (2) for “licensed or authorised” substitute “under Gibraltar jurisdiction”;

[This amendment changes the language used to that in the AVMS regulations.]

- (49) in clause 36(1)(b) for “jurisdiction” substitute “Member State”;

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[This amendment corrects an error in terminology.]

- (50) in clauses 36(1)(b), 36(1)(c), and 44 and in the explanatory memorandum for “Broadcasting Directive” substitute “AVMS Directive”;

[This amendment corrects an error in terminology.]

- (51) after clause 36 insert the following two clauses (as part of Part IV)-

“Proportion of distribution and production of television programmes.

36A.(1) Broadcasters under Gibraltar jurisdiction shall ensure, where practicable and by appropriate means, that they reserve for European works a majority proportion of their transmission time, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping.

(2) Having regard to any responsibilities of broadcasters under Gibraltar jurisdiction to its viewing public in respect of information, education, culture and entertainment, the proportion referred to in subsection (1) shall be achieved progressively, on the basis of criteria judged suitable for this purpose.

(3) Where the proportion referred to in subsection (1) cannot be attained, the proportion of transmission time, as defined in subsection (1), reserved for European works shall not be lower than the average for 1988.

(4) Broadcasters under Gibraltar jurisdiction shall ensure, where practicable and by appropriate means, that they reserve at least 10% of their transmission time, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping, or alternatively, at the discretion of the Authority, at least 10% of their programmes budget, for European works created by producers who are independent of broadcasters.

(5) Having regard to any responsibilities of broadcasters under Gibraltar jurisdiction to its viewing public in respect of information, education, culture and entertainment, the proportion referred to in subsection (4) shall be achieved—

- (a) progressively, on the basis of criteria judged suitable for this purpose by the Authority;
- (b) by earmarking an adequate proportion for recent works, that is to say works transmitted within five years of their production.

Reporting to the Commission.

36B.(1) Notwithstanding the repeal of section 10B(6) of the Gibraltar Broadcasting Corporation Act, the Authority shall continue to ensure that the Commission is provided every two years with a report on the application of section 36A.

(2) The report required by subsection (1) shall include, in particular, a statistical statement on the achievement of the proportions referred to in sections 36A(1) and (4) for each of the television programmes provided by broadcasters under Gibraltar jurisdiction, the reasons, in each case, for the failure to attain that proportion and the measures adopted or envisaged in order to achieve it.”;

[This amendment imports provisions from the AVMS regulations.]

(52) for clause 37 substitute—

“Exclusive rights to major events.

37.(1) The Minister may draw up a designated list of events (“the list”) which he considers to be of major importance for Gibraltar and which shall not be broadcast on an exclusive basis in such a way as to deprive the public in Gibraltar of the possibility of following such events by live coverage or deferred coverage on free television.

(2) The Minister may prescribe that events on the list shall be made available by whole or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage.

(3) The list shall be drawn up in a clear, transparent and timely manner.

(4) The Minister shall ensure that the Commission is immediately notified of the list and of any additions or amendments thereto, and, subject to any legal challenge, shall revoke such elements in the list, including listed events and any additions or amendments to the list, as the Commission rules to be incompatible with European Union law.”;

[This amendment and amendments (53) and (54) import provisions from the AVMS regulations which were transposed differently in the Bill.]

(53) in clause 38 for subsections (2) to (5) substitute-

“ (2) The requesting broadcaster shall have access on a fair, reasonable and non-discriminatory basis, to the events referred to in subsection (1).

(3) The requesting broadcaster may freely select short extracts from the transmitting broadcaster’s signal with, unless impossible for practical reasons, at least the identification of the source, and use such extracts in short news reports.

(4) The requesting broadcaster–

(a) shall use the short extracts solely for general news programmes;

(b) may use the short extracts in on-demand audiovisual services but only if it offers the same programme on a deferred basis.

(5) The transmitting broadcaster shall be entitled to compensation from the requesting broadcaster in the

amount of the additional costs directly incurred in providing access.

(6) Where a broadcaster under Gibraltar jurisdiction makes a similar request from a transmitting broadcaster in a Member State, the Authority shall, if requested, ensure that the equivalent rights of the transmitting broadcaster under Article 15 of the Audiovisual Media Services Directive are upheld.

(7) The Authority may issue guidelines regulating access conditions for the purposes of this section and such guidelines shall cover the following matters-

- (a) the establishment of a procedure, other than the one set out in this section, which achieves access on a fair, reasonable and non-discriminatory basis ;
- (b) the modalities and conditions for the provision of short extracts, including--
 - (i) compensation arrangements;
 - (ii) the maximum length of short extracts;
 - (iii) time limits regarding the transmission of short extracts.”;

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(54) for clause 39 substitute--

Right of reply.

39.(1) All broadcasters under Gibraltar jurisdiction shall provide to any natural or legal person, regardless of nationality, whose legitimate interests, in particular reputation and good name, have been damaged by an assertion of incorrect facts in a television programme, a right of reply or a remedy judged by the Authority to be an equivalent remedy to a right of reply.

(2) Where a person (in this section referred to as “the complainant”) is of the view that he is entitled, by virtue of subsection (1), to a right of reply or equivalent remedy, the complainant may require the broadcaster to

make the arrangements necessary for that right to be exercised.

(3) The arrangements referred to in subsection (2)–

- (a) shall be at no cost to the complainant; and
- (b) shall not be of such a nature as to hinder the actual exercise of the right of reply, or equivalent remedy, notably, by the imposition of unreasonable terms or conditions.

(4) Where the request for a right of reply or equivalent remedy is justified, the broadcaster concerned shall transmit the reply within a reasonable time after the request was substantiated and at a time and in a manner appropriate to the broadcast to which the request relates.

(5) The broadcaster may refuse to provide a right of reply or an equivalent remedy if such a reply–

- (a) is not justified by reference to the provisions of subsection (1);
- (b) would render the broadcaster liable to prosecution;
- (c) would render the broadcaster liable to civil proceedings; or
- (d) would transgress standards of public decency.

(6) Where–

- (a) the broadcaster refuses to give a right of reply; or
- (b) the complainant is dissatisfied with the arrangements in respect of the exercise of his right of reply,

the complainant may, within 28 days of the broadcast or the failure of arrangements, as the case may be, about which he is complaining refer the matter in writing to the Authority who shall itself or, in the event that it is unable to meet in the required time, by three persons appointed by the Authority for this purpose, consider any written representations made by the complainant and by the broadcaster.

(7) The complainant, at the time that he makes a complaint to the Authority, shall pass a copy of the complaint and any materials attached thereto to the broadcaster and the broadcaster shall provide any written representations it wishes to make to the Authority within 14 days of having received the complaint.

(8) The decision of the Authority shall be given and conveyed in writing to the complainant and to the broadcaster within 14 days of the receipt by the Authority of the written representation from the broadcaster or within 28 days of the receipt by the Authority of the complaint, whichever is the sooner.

(9) The broadcaster shall comply with the decision of the Authority within 14 days of the receipt of that decision.

(10) The provisions as to time set out in subsections (5) to (9) may be varied by the Authority where it is satisfied that it is appropriate to do so in order to give an effective right of reply to persons resident or established in a Member State.

(11) The Authority may require the broadcaster to provide a right of reply or a remedy equivalent thereto in respect of material broadcast by a programme contractor where in the opinion of the Authority such action is the only effective way to provide a right of reply and in such case the provisions of this section shall apply by substituting the broadcaster for the programme maker.”;

(55) for the heading for Part VII substitute-

**“REGULATION OF EUROPEAN UNION
BROADCASTS”;**

[This amendment and amendments (56) – (59) import provisions from the AVMS regulations and amend clauses of the Bill in order to ensure consistency.]

(56) for the section heading to clause 40 substitute-

“European Union Broadcasts.”;

(57) in clause 40(1) for “other Member States” substitute “a Member State”;

(58) in clause 40 for subclauses (2) to (7) substitute-

“(2) The Authority shall have the power to take measures provisionally derogating from subsection (1) in respect of television broadcasts from Member States if the following conditions are fulfilled-

(a) in the judgment of the Authority the broadcast includes-

(i) any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence;

(ii) any programmes which in the opinion of the Authority are likely to impair the physical, mental or moral development of minors, except where the Authority is satisfied that by means of the time of the programme concerned or by any technical measure, including any acoustic warning or visual identification, minors will not normally hear or see such programmes;

(iii) no incitement to hatred at all whether on grounds of race, sex, age, sexual orientation, religion, nationality or otherwise;

- (b) during the previous 12 months, the broadcaster has infringed paragraph (a) on at least two prior occasions;
- (c) the Authority has notified the broadcaster and the Commission in writing of the alleged infringement and of its intention to restrict retransmission should any such infringement occur again; and
- (d) consultations with the transmitting Member State and the Commission have not produced an amicable settlement within 15 days of the notification provided for in paragraph (c), and the alleged infringement persists.

(3) The measures that the Authority may adopt pursuant to subsection (2) shall include the provisional suspension of retransmissions of television broadcasts or any restrictions on such retransmissions.

(4) The Authority shall, as a matter of urgency, put an end to any measure it adopts pursuant to subsection (2) if the Commission informs it, in accordance with Article 3 (2) of the AVMS Directive, that the measure is contrary to European Union law.

(5) Any person who continues to retransmit broadcasts contrary to a measure adopted by the Authority pursuant to subsection (2) commits an offence.

(6) A person who commits an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or both.”;

(59) for clause 41 substitute-

"Special provisions in respect of on-demand audiovisual media services.

41.(1) Subject to the provisions of this section, no person shall interfere with the freedom of reception in Gibraltar of on-demand audiovisual media services from Member States for reasons which fall within the fields coordinated by the AVMS Directive.

(2) The Authority shall have the power to take measures provisionally derogating from subsection (1) in respect of a given on-demand audiovisual media service if the following conditions are fulfilled—

(a) the measure is necessary for one of the following reasons—

(i) public policy, in particular the prevention, investigation, detection and prosecution of criminal offences, including the protection of minors and the fight against any incitement to hatred on grounds of race, sex, age, religion, nationality and violations of human dignity concerning individual persons;

(ii) the protection of public health;

(iii) public security, including the safeguarding of the security and defence of Gibraltar;

(iv) the protection of consumers, including investors;

(b) taken against an on-demand audiovisual media service which prejudices the objectives referred to in paragraph (a) or which presents a serious and grave risk of prejudice to those objective; and

(c) is proportionate to those objectives.

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(3) The measures that the Authority may adopt pursuant to subsection (2) shall include the immediate cessation of the service or its cessation within a stated time frame.

(4) Subject to subsection (5), the Authority shall take a measure pursuant to subsection (2) where the following conditions are satisfied—

- (a) the Member State under whose jurisdiction the provider falls has been asked to take measures and that Member State has not taken such measures, or, if it has, they were inadequate;
- (b) the Commission and the Member State under whose jurisdiction the provider falls have been informed of the Authority's intention to take such measures;
- (c) where the reason for the intended adoption of a measure is the safeguarding of the internal security or defence of Gibraltar and is of such a nature as to fall within the Governor's constitutional responsibilities and the Governor has informed the Minister that the measure needs to be taken who so directs the Authority.

(5) The Authority may take a measure pursuant to subsection (2) without complying with the requirements of subsection (4) (a) and (b) where it deems the matter to be of urgency, but shall, in such cases, ensure that the Commission and the relevant Member State, are notified as soon as practicable of the measure taken, and indicate the reasons for the urgency.

(6) The Authority shall—

- (a) put an end, as a matter of urgency, to any measure it adopts pursuant to subsection (2);
- (b) refrain from adopting a proposed measure pursuant to subsection (2),

where the Commission informs it, in accordance with Article 3(6) of the AVMS Directive, that the measure, or proposed measure, is contrary to European Union law.

(7) Where an on-demand audiovisual media service provider under Gibraltar jurisdiction is in breach of a legislative or administrative provision in a Member State which is equivalent to subsection (2) above, that on-demand audiovisual media service provider commits an offence under this Act.

(8) Any person who continues to provide an on-demand audiovisual media service contrary to a measure adopted by the Authority pursuant to subsection (2) commits an offence.

(9) A person who commits an offence under subsections (7) or (8) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or both.

European works (on-demand audiovisual services).

41A.(1) On-demand audiovisual media services provided by media service providers under Gibraltar jurisdiction shall promote, where practicable and by appropriate means, the production of and access to European works.

(2) The promotion referred to in subsection (1) may relate, in particular, to the financial contribution made by such services to the production and rights acquisition of European works or to the share or prominence of European works in the catalogue of programmes offered by the on-demand audiovisual media service.

(3) The Authority shall ensure that reports are sent to the Commission in accordance with the AVMS Directive on the implementation of this section.”;

(60) in clause 42(1)(a) for “Government of Gibraltar” substitute “Government”;

[This amendment and amendment 61 correct typographical errors. In respect of Section 41(4)(c) wording is inserted to clarify how the Authority will act when the Governor considers a measure should be taken for internal security purposes; which will require the Minister to communicate that requirement to the Authority]

(61) in clause 42(4)-

(a) in paragraph (b) for “applied” substitute “be applied”;

(b) in paragraph (d) for “Community” substitute “European”;

(62) delete clause 43;

[This amendment and amendment (63) are made as it is thought that such matters if legislated for would be best suited to secondary legislation.]

(63) delete Part VIII (Conditional access consisting of clauses 45 and 46);

(64) in clause 47(2) for “the Minister” substitute “the Chief Minister, after consultation with the Leader of the Opposition,”;

[This amendment is to impose a requirement on the Chief Minister to consult with the Leader of the Opposition before making any appointment to the GBC board.]

(65) in clause 53(2) for “corporation” substitute “GBC”;

[This amendment and amendments (66) and (67) correct errors in terminology.]

(66) in clause 54(1) for "corporation" substitute "GBC";

(67) in clause 54(4) for "GBC" substitute "the GBC";

(68) for clause 57(2) substitute-

"(2) The accounts of the GBC shall be audited by an auditor who shall be a person or firm registered in Part I, or II in the case of firms, of the Register maintained under the provisions of the Auditors Approval and Registration Act 1988.";

[This amendment provides for greater independence of the GBC in that the Minister will no longer be able to impose his choice of auditor upon them.]

(69) in clause 61 for "of the Authority under this Act or any Regulations made under it" substitute "of this Act";

[This amendment is to clarify the language used in the original Bill.]

(70) in clause 67-

(i) in subsection (4)(b) delete "the Minister or";

(ii) in subsection (6) for "the Minister" substitute "the Authority";

(iii) in subsection (9) for "the Minister or the Authority, as the case may be," substitute "the Authority";

[These amendments are examples of the transfer of powers from the Minister to the Authority.]

(71) for clause 69 substitute-

"Offences.

69.(1) It is an offence for any person to be responsible for any act or omission contrary to the provisions of this Act or required to be done by the Authority pursuant to the provisions of this Act.

(2) Any person found guilty of an offence contrary to subsection (1) is punishable on summary conviction to a fine not exceeding twice level 5 on the standard scale.”.

[This amendment and amendments (72) to (74) import provisions from the AVMS regulations.]

(72) after clause 70 insert-

“Continuation of the offence.

70A. Without prejudice to the right to bring separate proceedings for contraventions of this Act taking place on separate occasions, a person who is convicted of an offence under this Act shall, where the offence continues after the conviction—

- (a) be deemed to commit a separate offence in respect of every day on which the offence so continues; and
- (b) be liable on summary conviction or on conviction on indictment as the case may be, together with such liability as may be stipulated in this Act, to a fine not exceeding level 5 on the standard scale for each such day.”;

(73) after clause 71 insert-

“Civil proceedings.

71A. Subject to Part XII, nothing in this Act shall limit any right of any person to bring civil proceedings in respect of any act or omission rendered unlawful by any provision of this Act, and, without prejudice to the generality of the preceding words, compliance

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with the provisions of this Act, contraventions of which are declared to be offences under this Act, shall be enforceable by civil proceedings by the Authority for an injunction or for any other appropriate relief.”;

(74) after clause 72 insert-

“Regulatory Co-operation.

72A.(1) The Authority shall cooperate with the regulatory bodies in the Member States which are responsible for ensuring compliance with the AVMS Directive in their Member States, particularly when necessary—

- (a) to carry out its duties under this Act;
- (b) to assist the regulatory bodies in the Member States in the exercise of their duties pursuant to the AVMS Directive;
- (c) to provide each other with the information necessary for the application of the AVMS Directive and in particular Articles 2, 3 and 4 thereof.

(2) The Authority shall notify the Commission of any information it provides pursuant to paragraph (c) of subsection (1).

Co-operation with Member States.

72B.(1) Where the Authority—

- (a) receives, under Article 4 of the Audiovisual Media Services Directive, a request from a Member State relating to a relevant broadcaster, and
- (b) considers that the request is substantiated,

it must ask the broadcaster to comply with the rule identified in that request.

(2) The Authority shall enforce the rule referred in subsection (1) as if it were a rule provided for under this Act.

(3) In this section "relevant broadcaster" means a broadcaster who is under Gibraltar jurisdiction.";

(75) after clause 73(2) insert-

" (3) The Audiovisual Media Services Regulations 2011 are revoked.";

[This amendment revokes the AVMS regulations, the necessary parts of which have been moved into the Bill itself.]

(76) in Schedule 1 for "Section 16" substitute "Section 17";

[This amendment corrects a cross referencing error.]

(77) in Schedule 1 delete paragraph 1 and renumber the following paragraphs as paragraphs 1 to 9;

[This amendment is consequential on the removal of references to the Transmission Standards Directive.]

(78) in Schedule 2 for "Section 17" substitute "Section 18";

[This amendment corrects a cross referencing error.]

(79) in Schedule 2 in paragraph 3 for "the Minister" substitute "the Authority";

[This amendment and amendment (80) are consequential to the passing of powers etc from the Minister to the Authority etc.]

(80) in Schedule 2 paragraph 6 delete ", in consultation with the Minister,";

(81) in Schedule 3 for "section 22" substitute "Section 23";

[This amendment corrects a cross referencing error.]

(82) in the explanatory memorandum delete the second sentence.

[This amendment removes references to certain directives no longer relevant to the Bill from the explanatory memorandum.]

I shall look forward to the debate on Friday.

With best wishes, as ever,

A handwritten signature in black ink, consisting of a large, stylized 'F' followed by a long horizontal stroke that loops back under the 'F'.

Fabian Picardo
Chief Minister

2775 **Clerk:** Shall I read out clause 1 to clause 75?

Mr Chairman: Sorry, did you say to 75 or 25?

2780 **Clerk:** Clauses 1 to 75.

Mr Chairman: Does any hon. Member on either side of the House wish to raise any particular clause – in that entire Bill, virtually?

2785 In that case, clauses 1 to 75, as amended in terms proposed by the Hon. the Chief Minister in his letter to me of yesterday's date, stand part of the Bill.

Clerk: Schedules 1 to 3.

2790 **Mr Chairman:** Schedules 1 to 3, again as amended, if indeed there are any amendments there – yes, there are. Schedules 1 to 3, as amended, stand part of the Bill.

Clerk: The long title.

Mr Chairman: The long title, as amended, stands part of the Bill.

2795

Births and Deaths Registration (Amendment) Bill 2012
Clauses considered and approved

2800 **Clerk:** A Bill for an Act to amend the Birth and Deaths Registration Act and related legislation. Clauses 1 to 4.

Mr Chairman: Clauses 1 to 4 stand part of the Bill.

2805 **Clerk:** The long title.

Mr Chairman: The long title stands part of the Bill.

2810

Criminal Justice (Amendment) Bill 2012
Clauses considered and approved

2815 **Clerk:** A Bill for an Act to amend the Criminal Procedure and Evidence Act 2011 and the Crimes Act 2011. Clauses 1 to 3.

2820 **Minister for Education, Financial Services, Gaming, Telecommunications and Justice (Hon. G H Licudi):** Mr Chairman, in clause 3 –

Chief Minister (Hon. F R Picardo): The whole thing stands.

Hon. G H Licudi: So I do not have to move the –

2825 **Mr Chairman:** No, unless there are any –

Hon. G H Licudi: Yes, I am just moving the amendment –

2830 **Mr Chairman:** Formally.

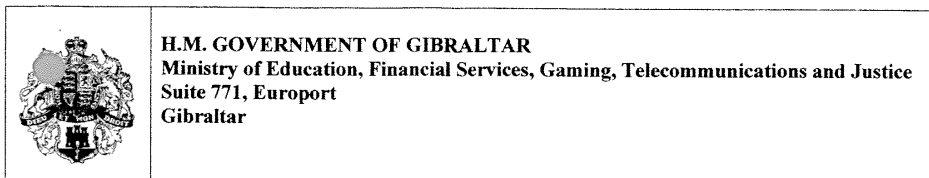
Hon. G H Licudi: – formally for the record.

Hon. Chief Minister: For all of them.

2835 **Hon. G H Licudi:** I am certainly not going to read them all out, but after clause 3.(4) we insert the provision which is set out attached to my letter to you, Mr Chairman, of 21st September 2012.

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Mr Chairman: In that case, we will treat the amendments proposed in the Hon. the Minister for Justice's letter to me of 21st September as having been formally tabled and, again, *Hansard* will record the letter as part of its record.



21 September 2012

Your Ref:
Our Ref: GOG 3

The Hon H K Budhrani QC
Speaker
Gibraltar Parliament
156 Main Street
Gibraltar

Dear Mr Speaker

RE: AMENDMENT TO CRIMINAL JUSTICE (AMENDMENT) ACT 2012 [B. 13/12]

I beg to give notice that I shall be moving the amendments attached at Appendix 1 to the Bill for a Criminal Justice (Amendment) Act 2012 during Committee Stage.

Yours sincerely



Gilbert Licudi QC MP
Minister for Education, Financial Services, Gaming, Telecommunications and Justice

Enc.

Appendix 1

(1) After Clause 3(4) insert the following subclause-

After section 266 insert the following-

"Pornographic performances involving children

Pornographic performances involving children.

266A.(1) A person (A) commits an offence if-

- (a) he intentionally causes, encourages or assists another person (B) to participate in a pornographic performance, in any part of the world; and
- (b) either-
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over; or
 - (ii) B is under 13.

(2) A person (A) commits an offence if-

- (a) he intentionally uses force, threats (whether or not relating to violence) or any other form of coercion to force another person (B) to participate in a pornographic performance, in any part of the world; or
- (b) he intentionally causes, encourages, assists or coerces another person (B) to participate in a pornographic performance, in any part of the world and he does so for or in the expectation of payment for himself or another person;

and

- (c) either-
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over; or
 - (ii) B is under 13.

(3) A person (A) commits an offence if-

- (a) he knowingly attends a pornographic performance in any part of the world involving the participation of another person (B); and
- (b) either-
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over; or
 - (ii) B is under 13.

(4) A person who commits an offence under this subsection (1), (2) or (3) is liable-

- (a) on summary conviction, to imprisonment for 12 months or the statutory maximum fine or both;
- (b) on conviction on indictment, to imprisonment for 14 years.

(5) In this section-

"payment" has the same meaning as in section 262(2);

"pornographic performance" means a live exhibition aimed at an audience, including by means of information and communication technology, of:

- (i) a child engaged in real or simulated sexually explicit conduct; or

(ii) a child and is indecent.".

(2) After Clause 3(9) insert the following subclauses-

"(10) In Schedule 2, Part A, in paragraph 1(c) after the entry for sections 262 to 265 of the Act insert the following entry-

"- section 266A (Pornographic performances involving children)".

(11) In Schedule 3 after paragraph 30 insert the following paragraph-

"30A. An offence under section 266A (Pornographic performances involving children) if the offender-

(a) was 18 or over; or

(b) is or has been sentenced in respect of the offence to imprisonment for not less than 12 months.".

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Mr Chairman: Clauses 1 to 4 stand part of the Bill. Sorry, was that 44?

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Clerk: Clauses 1 to 3.

Mr Chairman: Sorry, clauses 1 to 3 stand part of the Bill.

Clerk: The long title.

2855

Mr Chairman: The long title stands part of the Bill.

2860

BILLS FOR THIRD READING

Broadcasting Bill 2012

Births and Deaths Registration (Amendment) Bill 2012

Criminal Justice (Amendment) Bill 2012

Third Reading approved; Bills passed

2865

Clerk: The Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to report that the Broadcasting Bill 2012; the Births and Deaths Registration (Amendment) Bill 2012; and the Criminal Justice (Amendment) Bill 2012 have been considered in Committee and agreed to, with amendments, and I now move that they be read a third time and passed.

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Mr Speaker: I now put the question, which is that the Broadcasting Bill 2012; the Births and Deaths Registration (Amendment) Bill 2012; and the Criminal Justice (Amendment) Bill 2012 be read a third time and passed.

Those in favour of the Broadcasting Bill 2012. (**Government Members:** Aye.) Those against. (**Opposition Members:** No.) Carried by Government majority.

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Those in favour of the Births and Deaths Registration (Amendment) Bill 2012; (**Members:** Aye.) Those against. Carried.

Those in favour of the Criminal Justice (Amendment) Bill 2012. (**Government Members:** Aye.) Those against. (**Opposition Members:** No.) Carried by Government majority.

2885

Tribute to the Speaker

Clerk: The Hon. the Chief Minister.

2890 **Chief Minister (Hon. F R Picardo):** Mr Speaker, before I move the amendment this afternoon – this evening (**Several Members:** Adjournment.). Sorry, before I move the adjournment this evening – (*Interjection*) No more amendments! I think it is apposite to say a few words about the service you have given this Chamber.

2895 Today will be your last day in the Chair as a matter of your own choice, expressed to us after the election, that your wish was to have done eight years in that Chair. Perhaps that is a salutary message for those who occupy the Chair I now occupy.

2900 Mr Speaker, I can say no more about the way that you have discharged your functions to *all* of the Members of this place and to this place and our community, other than to record the history of your appointments. From this side of the House, when we were opposite, when you were first proposed as Speaker, we abstained on your appointment for the reasons that are set out in the *Hansard*. When you were next proposed as Speaker, we were very happy to explain why we would support you. And on the third appointment, I was actually *honoured* to recommend you.

2905 Mr Speaker, if we had any concerns at the time that you were first appointed, you quickly allayed them, treating every Member of this House fairly and bringing your honesty and integrity to the discharge of your functions for Gibraltar, not just in this place but everywhere that you represented this Parliament and the people of Gibraltar abroad. Your conduct as Speaker has been, I am sure, despite the many disagreements you may have had with Members of both sides of the House, everything that the House expected from you and that any House in the Commonwealth can expect from a Speaker appointed for the purpose that holding that Chair requires.

2910 The reasons that you leave Parliament are totally unconnected in *our* minds to the matters which were ventilated in the press, in our view, so unfairly, earlier this year, and those do not in any way mar the service that you have given this community and this Chamber. You leave, Mr Speaker, of your own volition, I trust with the support, I am sure, of all Members of this House and with recognition of what it is that you have managed to do, and if I may say so, important in that context that you are the first Hindu person in our community to be appointed to the chair and I trust that you will not be the last.

2915 Mr Speaker, for those who are listening I think it is important to explain that, with the guidance of yourself and the Clerk, we have agreed that you will remain Speaker of this Parliament until after the deadline for submitting Questions for the next session so that there is a Speaker in place who can rule on the admissibility of Questions; that you will vacate the chair on the eve of the next meeting; and that Mr Adolfo Canepa, whose name I have already consulted the Leader of the Opposition on, will assume the chair, subject to the vote of this House, on the next sitting of this House in October.

2920 All I can say, Mr Speaker, on behalf of the Government and of the people of Gibraltar, and I trust on behalf of all Members in the Chamber, is thank you, not just for what you have done but also for how you have done it. (*Applause*)

2925 **Mr Speaker:** The Hon. the Deputy Leader of the Opposition.

Hon. D A Feetham: Mr Speaker, thank you very much.

2930 Mr Speaker, it is not often – and I wish that it *were* different – that myself and the Hon. the Chief Minister are *ad idem* and are in agreement in relation to something, and this is certainly one of those issues.

2935 We have had our disagreements, Mr Speaker. I have taken one or two raps on the knuckles myself – perhaps some less gracious than others. Some I have felt that perhaps they were not merited but I am absolutely certain that every comment that you have made has always been made in good faith and that you have discharged your duties in good faith to the best of your abilities and in a way that you have believed to be impartial and fair, and on the whole, certainly, the Opposition agrees with that.

2940 It only leaves me to associate myself entirely with the words of the Chief Minister and certainly, on this occasion, he not only speaks on behalf of the Government but he speaks on behalf of the entire House. (*Applause*)

Mr Speaker: If I may, I gratefully acknowledge the very kind and generous sentiments expressed both by the Hon. the Chief Minister and by the Hon. the Deputy Leader of the Opposition.

2945 If I may be permitted a few words for the last time in this Chair before I formally accede to the motion for the adjournment... if I may say a few words.

Rarely, if ever in life, does the unsolicited opportunity present itself quite out of the blue to serve one's country at its highest level, but that is precisely what happened to me when the then Chief Minister, the Hon. Peter Caruana, telephoned me on 3rd August 2004 to ask whether I would be willing to accept

2950 appointment as Speaker of the House of Assembly, as this august body was then known. Needless to say, without a moment's hesitation, I gratefully accepted the huge honour that had unexpectedly been bestowed upon me and I set off with relish to face what I perceived would be the greatest challenge of my life.

2955 Although the Opposition, at the time led by the Hon. Joe Bossano, had its reservations as to the suitability of my appointment and voted accordingly, in keeping with the best traditions of our parliamentary democracy, the office to which I had been appointed was at all times treated with the utmost respect and deference by all the elected Members, and it goes without saying every kindness and courtesy was extended to me at a personal level.

2960 I was particularly gratified when the Opposition, having kept an open mind during the three years that followed, were able to support my reappointment in 2007, and I was humbled when the Hon. Fabian Picardo, as Chief Minister, proposed my further reappointment last December.

2965 While I had some theoretical general knowledge of the workings of parliaments based on the Westminster model, I will always be indebted to the late Dennis Reyes, who, as Clerk, guided me in my early days through the practices and procedures of our own legislature, and to Melvyn Farrell, who has since continued in that office to provide invaluable support and assistance to me in the performance of my duties. *(Applause)* I am also grateful to Kevin Balban, Frances Garro, and before her Audrey Gomez – I think she is now Lopez – and to Stephen Bonich, who make up the rest of our parliamentary complement, for the courtesies extended to me as they have cheerfully and efficiently gone about their work largely behind the scenes.

2970 Apart from my duties here, I have had the honour to represent Gibraltar at no less than 10 Commonwealth Parliamentary conferences – plenary, regional and of Speakers – around the globe, when I have had the privilege to meet hundreds of parliamentarians from 55 countries and the heads of state of Kenya, Malta, Nigeria, India, Trinidad and Tobago and Sri Lanka, and of course our own sovereign, Her Majesty the Queen. My attendances at these conferences have enabled me to learn something about how other parliaments conduct their business, but what has given me the greatest pleasure and sense of purpose was the opportunity to tell those out there about Gibraltar, its institutions and the mature and stable parliamentary democracy that we enjoy.

2975 To summarise, in the words of a well-known song, 'I've had the time of my life', but as with everything else in life, there must come a time to call it a day. Although our Constitution confers upon a Chief Minister the choice, subject to consultation with the Leader of the Opposition and approval by the Elected Members, of Speaker following the election of a new Parliament, we follow the convention that has long prevailed at Westminster that, in order to avoid politicising the office, the incumbent is usually reappointed as often as he is willing and able to carry on in the Chair. The onus, therefore, is upon the Speaker to ensure that he does not overstay his welcome. In that context, I have long held the view that the Speaker should serve about two parliamentary terms, and certainly no more than 10 years, if the incumbent is not to become too closely identified with the office. That is the view I expressed to the Chief Minister last December and I believe the time has now come for me to relinquish this distinguished office, which I do on the eve of the next sitting of Parliament.

2980 I conclude by invoking, as it has been my honour and privilege to do in the prayer recited by me at the commencement of each sitting of this House these last eight years, divine guidance on all your deliberations for the good of our City. *(Applause and banging on desks)*

2985
2990 **Hon. Chief Minister:** If I may be allowed to add, Mr Speaker, I am sure that your service to Gibraltar has not ended today.

2995

Adjournment

3000 **Chief Minister (Hon. F R Picardo):** I have the honour to move, Mr Speaker, that this House do now adjourn *sine die*.

Mr Speaker: I now propose the question, which is that this House do now adjourn *sine die*.

I now put the question, which is that this House do now adjourn *sine die*. Those in favour. **(Members: Aye.)** Those against. Passed.

3005 This House will now adjourn *sine die*.

The House adjourned at 7.45 p.m.